RF-05H61200-C2-0004

JACOBS ENGINEERING GROUP INC.

MEMORANDUM

DATE: August 25, 1995

TO: Rocky Flats Strategic Planning File

FROM: Ken Alkema

SUBJECT: Meeting with Bob Morgan Environmental Manager Safe Sites August 24, 1995

Notes:

1. Colorado has raised questions about the way that the IAG tanks (85 of them) are being managed. Claims that a better list is needed to clarify the status, existence, and relationship to other programs for each tank.
2. Mr. Morgan is also the Residue Compliance Program Manager for Safe Sites.
3. RMRS owns IAG tanks but Safe Sites is inspecting and monitoring many of them. The two companies need to work out the details of how they are going to work together.
4. Copies of CDPHE orders and the federal District Court filed order (Sierra Club) are attached.
5. Need to consider current use of the tanks as part of remediation planning for any tank part of the Industrial Area OUs. In some cases the tanks are part of the operating system.

→ Bob Morgan
FM: KIRKT

Hr 11/3/10/95
File-89-B-19

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

CIVIL ACTION NO. 89-B-181

SIERRA CLUB and the COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,

Plaintiffs,

vs.

UNITED STATES DEPARTMENT OF ENERGY,

Defendant.

JOINT STIPULATION AND ORDER

WHEREAS, on August 25, 1994, upon agreement and consent of all the parties, this Court entered a Joint Stipulation and Order ("August 25, 1994, Order") establishing an eight-month process, the goal of which was to continue expediting the permitting process (or closure plan review process) for the mixed residue container storage units storing the 599.5 cubic yards of mixed residues referred to in this Court's Memorandum Opinion and Order dated August 13, 1991, and that are the subject of this Court's Amended Judgment dated August 22, 1991 (referred to hereafter as the "mixed residue container storage units"),

WHEREAS, as a part of that process, the August 25, 1994, Order established an enforceable schedule for the United States Department of Energy ("DOE") to submit certain additional information to the Colorado Department of Public Health and Environment ("CDPHE") with respect to the mixed residue container storage units for which DOE seeks a Colorado Hazardous Waste Management Act ("CHWMA") permit,

WHEREAS, DOE met each obligation under the August 25, 1994, Order in a timely manner,

WHEREAS, on January 6, 1995, CDPHE issued a CHWMA permit for twenty-one (21) mixed residue container storage units principally for the storage of 55-gallon drums (effective February 5, 1995) (referred to hereafter as the "February 1995 Permit"),

WHEREAS, those 21 units are now storing approximately 90 percent of the mixed residues at issue in this case,

WHEREAS, no further relief is necessary or appropriate in this case with respect to those twenty-one (21) mixed residue container storage units and the mixed residues stored therein,

WHEREAS, the remaining 10 percent of the mixed residues at issue in this case will be stored in vault and glovebox container storage units for which DOE's permit application is still pending,

WHEREAS, CDPHE has advised DOE pursuant to 6 Colo. Code Regs. 1007-3, § 100.500(a), that it has enough information to begin preparing a draft permit for the vaults and gloveboxes proposed to be permitted for storage of the remaining 10 percent of mixed residues at issue in this case, however nothing in this Order shall limit CDPHE's authority to request additional information from DOE,

WHEREAS, CDPHE has advised DOE that it still needs additional information with respect to the proposed closure plans submitted by DOE for those mixed residue container storage units that are no longer intended for storage and are now destined for

closure (hereafter referred to as the "43 mixed residue container storage units destined for closure"),

WHEREAS, the mixed residue container storage units destined for closure are described in a letter dated January 19, 1995, from DOE to CDPHE, a copy of which is attached to this Order as Exhibit A,

WHEREAS, in the August 25, 1994, Order, the Court stated that it anticipated entering a subsequent order or orders, including further enforceable schedules, as appropriate, that would bring the permitting process and closure plan review process to completion,

WHEREAS, the Court further directed the parties to submit to the Court on March 10, 1995, proposals concerning what additional orders were then necessary and appropriate to complete the permitting and closure plan review process with respect to the mixed residue container storage units, if completion was then possible,

WHEREAS, on March 10, 1995, the parties signed and submitted this Joint Stipulation and Order for entry by the Court as their proposal,

NOW, THEREFORE, on this 24th day of March, 1995, and with the consent of all the parties, it is hereby ORDERED and DECREED as follows:

1. On or before June 1, 1995, with respect to the 43 mixed residue container storage units destined for closure, DOE shall submit to CDPHE a tentative list identifying:

(a) those units for which DOE may need to defer initiation of closure (e.g., those units which contain Special Nuclear Material or piping from hazardous waste tank systems);

(b) those units for which DOE can begin closure upon approval of a closure plan and can complete closure within 180 days; and

(c) those units for which DOE can begin closure upon approval of a closure plan but may need an extended period of time to complete closure activities.

2. On or before July 31, 1995, DOE shall submit to CDPHE revised closure plans containing unit specific information and unit specific closure activities for the 43 mixed residue container storage units destined for closure as follows:

(a) With respect to those drum storage container units and vaults destined for closure, the revised closure plan shall be one that is substantially similar to the closure plan approved by CDPHE in the February 1995 Permit for the (21) mixed residue container storage units being used principally for the storage of 55-gallon drums (a copy of which is attached as Exhibit B to this Order).

(b) With respect to gloveboxes destined for closure, the revised closure plan shall be one that is substantially similar to the closure plan submitted by DOE to CDPHE on March 3, 1995 (a copy of which is attached as Exhibit C to this Order).

(c) The plans (one for vaults and drum container storage units and one for gloveboxes) shall also include, on a unit-by-

unit basis, a proposal for a 180-day (or less) schedule for initiation and completion of closure activities, or alternatively, a demonstration pursuant to 6 Colo. Code Regs. 1007-3, § 264.113(b) and (c), with respect to those units for which DOE may need to defer initiation of closure or for which DOE may require greater than 180 days to complete closure activities.

CDPHE anticipates reviewing the revised closure plans, and forwarding any written comments to DOE, within thirty days of receipt.

3. CDPHE anticipates that it will undertake the following permitting activities with respect to the vaults and gloveboxes proposed to be permitted for the storage of mixed residue containers:

a. By June 1, 1995, complete preparation by CDPHE staff permit writers of draft permit for these units including all conditions under 6 Colo. Code Regs. 1007-3, § 100.42 (generally applicable permit conditions); and all applicable conditions under 6 Colo. Code Regs. 1007-3, § 100.43 (establishing permit conditions for individual permits);

b. By July 1, 1995, give public notice of the preparation of a draft permit with a 45-day public comment period pursuant to 6 Colo. Code Regs. 1007-6, § 100.506;

c. By August 18, 1995, hold public hearing on draft permit if one is requested; and

d. By August 25, 1995, have closed the public comment period.

If CDPHE's progress is such that it may not meet any date in the foregoing schedule, CDPHE shall so inform the Court and the parties in writing on or before that date, and propose an alternative schedule. Within sixty (60) days after the close of the public comment period, if CDPHE anticipates that it will not be able to render a final permit decision within ninety (90) days after the close of the public comment period, CDPHE shall inform the Court and the parties in writing and propose an alternative schedule. These reports, if any, and proposed (or alternative) schedules are for informational purposes only.

4. On July 11, and November 15, 1995, CDPHE and DOE shall file with the Court (jointly if possible) brief quarterly status reports describing what permitting (and closure plan review) activities have occurred with respect to the mixed residue container storage units during the previous quarter, together with a proposed schedule for additional permitting (and closure plan review) activities to be undertaken by CDPHE and DOE with respect to such units for the next quarter. These status reports and proposed schedules are for informational purposes only.

5. Status conferences with the Court shall be held on July 25, and November 29, 1995. Sierra Club, CDPHE or DOE may raise concerns with CDPHE's or DOE's status reports or proposed schedules at such conference. If the parties agree that adequate progress toward issuing permit decisions with respect to the

mixed residue container storage units is being made, they may file a joint motion to vacate the next upcoming status conference. Any such motion must be filed no less than 14 days prior to such status conference.

6. No further relief is necessary or appropriate in this case with respect to those twenty-one (21) mixed residue container storage units and the mixed residues stored therein. With respect to the vault and glovebox container storage units proposed to be permitted for the remaining 10 percent of the mixed residues at issue in this case, DOE may be asked by CDPHE to undertake additional activities, or to submit additional information, based on public comments. CDPHE may need to revise the draft permit and to conduct additional inspections before issuing a final permit decision with respect to those units. Certain information regarding the closure plans for those mixed residue container storage units destined for closure may still be needed from DOE. Thus, on or before November 15, 1995, Sierra Club, DOE and CDPHE shall submit to the Court (jointly if possible) proposals concerning what additional orders are then necessary and appropriate for CDPHE to complete the permitting and closure plan review process with respect to the mixed residue container storage units, if completion is then possible. To the extent that schedules can then be established, such proposals shall provide a schedule for DOE to submit all remaining information required by CDPHE to complete the permitting and closure plan review process for the mixed residue container

storage units proposed to be permitted for storage. No later than November 6, 1995, the parties shall confer to discuss such proposals.

7. If CDPHE determines to take other administrative action with respect to DOE's pending permit application (e.g., issuing additional notices of deficiency), CDPHE shall file a notice with the Court to that effect fourteen days after doing so.

8. Except as expressly provided in Paragraphs 2 through 7, this Order does not impose any obligations on CDPHE. Nor does anything in this Order limit CDPHE's permitting responsibilities and authorities, including requesting from DOE additional information needed to complete the permitting process.

9. DOE shall pay civil penalties in accordance with this Paragraph if DOE fails to comply with the deadline contained in Paragraph 1 or 2 of this Order, unless DOE demonstrates that such failure was due to circumstances beyond its control. DOE shall be subject to such penalties in accordance with the following scale, until the deliverable for which the deadline is established is submitted:

Period of Failure to Comply	Penalty For Noncompliance
a. From 1 - 15 days	$1,000/day
b. From 16 - 30 days	$2,000/day
c. From 31 - 45 days	$4,000/day
d. From 46 - 60 days	$6,000/day
e. 61 days and beyond	$8,000/day

For periods of noncompliance that are 30 days or less, payment of civil penalties under this Paragraph shall be made by DOE within 60 days after the period of noncompliance ceases. For periods of noncompliance that exceed 30 days, the first payment shall be made 90 days after the first day a deadline is missed, and every 30 days thereafter; the amount of each payment shall be the amount which had accrued as of 60 days earlier, but which remains unpaid. If DOE files a motion to demonstrate that its failure to comply was due to circumstances beyond its control within 30 days of the missed deadline, the obligation to pay (but not the accrual of penalties) shall be tolled and payment (if payment is still then due) shall be made 60 days after the Court issues an order resolving the issues raised by the motion with respect to civil penalties accrued as of the date of the Court's order. If the period of noncompliance continues after the date of the Court's order, payments shall continue to be made every 30 days thereafter; the amount of each payment shall be the amount which had accrued as of 60 days earlier, but which remains unpaid.

10. DOE shall pay civil penalties in accordance with this Paragraph if DOE submits revised closure plans that fail to substantially comply with the requirements of Paragraph 2, unless DOE demonstrates that such failure was due to circumstances beyond its control. DOE shall be subject to such penalties in accordance with the following scale, until revised closure plans are submitted:

Period of Failure to Comply	Penalty For Noncompliance
a. From 1 - 15 days	$1,000/day
b. From 16 - 30 days	$2,000/day
c. From 31 - 45 days	$4,000/day
d. From 46 - 60 days	$6,000/day
e. 61 days and beyond	$8,000/day

The period of noncompliance does not begin (and civil penalties do not begin to accrue) until DOE receives from CDPHE a written statement of CDPHE's contention that DOE has submitted revised closure plans that fail to substantially comply with the requirements of Paragraph 2, describing with specificity the basis for that contention. A copy of that statement shall be simultaneously filed with the Court.

For periods of noncompliance that are 30 days or less, payment of civil penalties under this Paragraph shall be made by DOE within 60 days after the period of noncompliance ceases. For periods of noncompliance that exceed 30 days, the first payment shall be made 90 days after the first day of noncompliance, and every 30 days thereafter; the amount of each payment shall be the amount which had accrued as of 60 days earlier, but which remains unpaid. If DOE files a motion to demonstrate that its failure to comply was due to circumstances beyond its control, or a response to CDPHE's written statement describing with specificity DOE's contention that the submitted revised closure plans do substantially comply with the requirements of Paragraph 2, within 30 days of receipt of CDPHE's written statement, the obligation

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to pay (but not the accrual of penalties) shall be tolled and payment (if payment is still then due) shall be made 60 days after the Court issues an order resolving the issues raised by the motion or by CDPHE's written statement, with respect to civil penalties accrued as of the date of the Court's order. If the period of noncompliance continues after the date of the Court's order, payments shall continue to be made every 30 days thereafter; the amount of each payment shall be the amount which had accrued as of 60 days earlier, but which remains unpaid.

11. If DOE fails to make a penalty payment as required by Paragraphs 9 or 10, DOE shall be liable for the total stipulated penalty amount, plus any additional amount the Court deems appropriate, unless DOE demonstrates that the failure to pay was due to circumstances beyond its control.

12. It is DOE's position that the civil penalties described in Paragraphs 9 and 10 must be paid to the United States Treasury pursuant to 42 U.S.C. § 6928(g). It is CDPHE's and Sierra Club's position that the civil penalties described in Paragraphs 9 and 10 must be paid to the State of Colorado through the Colorado Department of Health. Accordingly, payments under Paragraphs 9 and 10 shall be made payable to "Clerk, United States District Court" and deposited with the Court Registry until the Court issues an order directing where payment is to be made. Notice of such payment shall be served by DOE on all other parties at the time of payment. Parties shall then file briefs addressing this issue within 30 days of the first payment into the Court

Registry. While the parties do agree and stipulate that it is premature to raise and adjudicate this issue prior to entry of this Order, DOE may file a motion seeking resolution of this issue after entry of this Order in advance of any payment.

13. The parties shall use best efforts to resolve disputes under this Order informally before seeking Court resolution.

14. The parties agree that in any proceeding seeking to enforce the requirements of this Order and/or to find DOE in contempt for failure to comply or for delay in compliance with such requirements, DOE may raise as a defense that such failure or delay was caused by the unavailability of appropriated funds. In particular, nothing herein shall be construed as precluding DOE from arguing that this Order does not require the obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. While CDPHE and Sierra Club disagree that an Anti-Deficiency Act defense, or any other defense based on lack of funding, exists, the parties do agree and stipulate that it is premature at this time to raise and adjudicate the existence of such a defense.

15. As had been set forth in Paragraph 21 of the August 25, 1994, Order, Sierra Club continues to reserve any right it may have to seek civil penalties with respect to DOE's failure to have a permit for the mixed residue container storage units on and after August 22, 1993. DOE also continues to reserve its right to object to any such penalties.

16. Sierra Club and CDPHE reserve any right they may have to seek reasonable costs of litigation, including attorney's fees, pursuant to 42 U.S.C. § 6972(e), related to the entry of this Joint Stipulation and Order. DOE reserves its right to object to the award of any such costs.

17. The Court shall retain jurisdiction over this matter to administer the terms of this Order. Nothing in this Order shall be construed to limit the equitable powers of this Court to modify the Order upon a sufficient showing by any party.

FOR PLAINTIFF SIERRA CLUB:

REED ZARS

REED ZARS, Esquire
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303-863-8990

Counsel for Sierra Club

DATED: 3/9/95

FOR PLAINTIFF-INTERVENOR COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

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DATED: March 10, 1995

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Counsel for Defendant United States
Department of Energy

DATED: March 10 1995

SO ORDERED: 3/24/95

UNITED STATES DISTRICT JUDGE

BEFORE THE HAZARDOUS MATERIALS AND WASTE MANAGEMENT DIVISION

COLORADO DEPARTMENT OF HEALTH

STATE OF COLORADO

SETTLEMENT AGREEMENT AND COMPLIANCE ORDER ON CONSENT NO. 93-04-23-01

IN THE MATTER OF U.S. DOE -- ROCKY FLATS PLANT

This Settlement Agreement and Compliance Order on Consent ("Order") is issued by the Colorado Department of Health through the Hazardous Materials and Waste Management Division ("the Department" or "CDH") to the United States Department of Energy ("DOE") and to EG&G Rocky Flats, Inc. ("EG&G") pursuant to the Department's authority under § 25-15-308, C.R.S. (1989 & 1992 Supp.).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Department makes the following findings of fact and conclusions of law.

1. The Rocky Flats Plant ("the Plant") is part of an integrated system of federally-owned laboratories and plants operated pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Department of Energy Organization Act, to develop and produce nuclear weapons for the national defense. The principal function of the Plant has been to produce certain components for those weapons. As part of its operations, the Plant generates hazardous waste, including mixtures of hazardous waste and radioactive materials (hereafter described as "mixed waste").

2. The United States is the owner and a co-operator of the Plant within the meaning of 6 CCR 1007-3, § 260.10 (4-90).

3. DOE is a department of the United States and is subject to state regulation of its hazardous waste management activities pursuant to § 6001 of RCRA, 42 U.S.C. § 6961.

4. As of January 1, 1990, EG&G assumed certain responsibilities at the Plant under the direction and control of

DOE pursuant to Contract No. DE-AC04-90DP62349. EG&G is a management and operating contractor for DOE and, as such, has certain responsibilities for hazardous waste management at the Plant.

5. Some of the mixed wastes generated by the Plant are classified by DOE as "mixed residues." Because DOE intended to recover certain valuable materials, including plutonium, from the mixed residues, it had considered them not regulated under the hazardous waste laws.

6. On August 9, 1989, CDH issued a notice of violation ("NOV") under the CHWA relating to the mixed residues that were in storage at the Plant as of that date.

7. In response to this NOV, DOE and CDH entered into Settlement Agreement and Compliance Order on Consent No. 89-10-30-01 on November 3, 1989 ("November 1989 Order"), establishing a responsible approach to identification, classification and management of the mixed residues then in storage.

8. On April 12, 1990, the District Court for the District of Colorado granted Sierra Club's motion for partial summary judgment in Sierra Club v. DOE, No. 89-B-181 (D. Colo.), finding that certain of the residues at the Plant are RCRA hazardous wastes.

9. On September 28, 1990, DOE submitted the Mixed Residue Compliance Plan to CDH pursuant to the November 1989 Order.

10. On July 31, 1991, CDH issued Compliance Order No. 91-07-31-01 ("July 1991 Order"), approving sections 3.0 through 6.0 of the Mixed Residue Compliance Plan with conditions, and disapproving section 7.0 in its entirety.

11. The July 1991 Order, inter alia, established a schedule for DOE to perform specified actions to bring the mixed residues then in storage into compliance with 6 CCR 1007-3, Part 265; to submit a CHWA permit application for storage and treatment of those mixed residues pending their removal from the Plant; and to submit a report by February 1, 1992, describing a program to reduce the inventory of those mixed residues at the Plant and a schedule for implementation. The mixed residues in storage at the time the July 1991 Order was issued shall be referred to hereafter as the "backlog mixed residues" and are those mixed residues listed by item description code ("IDC") on Exhibit A attached hereto.

12. On August 1, 1991, CDH filed suit against DOE in Civil Action No. 91-B-1326 in the United States District Court for the District of Colorado. The suit sought a court order compelling DOE

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to comply with the July 1991 Order. CDH's motion to consolidate its action with Sierra Club v. DOE, No. 89-B-181 (D. Colo.), was denied on August 6, 1991.

13. On August 13, 1991, the District Court for the District of Colorado ruled in Sierra Club v. DOE, No. 89-B-181 (D. Colo.), that DOE was storing certain mixed residues without interim status or a permit from CDH or the Environmental Protection Agency. The Court entered judgment on August 13, 1991, and then entered an Amended Judgment on August 22, 1991, directing DOE to obtain a permit for those mixed residues within two years from the date of its order, or August 22, 1993.

14. On September 27, 1991, President Bush announced the cancellation of several nuclear-weapons programs, leaving the W-88 warhead for the Trident II missile as the only remaining system requiring the fabrication of plutonium components at the Plant. This requirement was eliminated in January 1992, when the President decided to cancel further production of the Trident II missile and its nuclear warhead. DOE has proposed to cease nuclear manufacturing operations at the Plant.

15. DOE has informed CDH that it has performed the following actions required in the July 1991 Order:

a. DOE submitted the recycling/reclamation exemption protocol required by paragraph 12 of the July 1991 Order.

b. Pursuant to an agreement reached during settlement discussions, DOE submitted a proposal for alternate methods to achieve compliance with 6 CCR Parts 262 and 265 in gloveboxes used solely for storage.

c. DOE brought the Group 1 and 2 areas into physical compliance with 6 CCR 1007-3, Parts 262 and 265 by October 29, 1991, as required by Attachment A of the July 1991 Order.

d. DOE brought the Group 3 and 4 areas into physical compliance with 6 CCR 1007-3, Parts 262 and 265 by September 29, 1991, except that on September 27, 1991, DOE submitted a proposal for creating adequate aisle space in Group 3 and 4 areas and on October 29, 1991, submitted a schedule for installing secondary monitoring instruments in those areas, as required by Attachment A of the July 1991 Order. Pursuant to an agreement reached during settlement discussions, on September 27, 1991, DOE submitted a schedule for removing backlog mixed residues and unknown residues from Room 127 Basement in Building 776. DOE has since moved the backlog mixed residues and unknown residues from Room 127 Basement in Building 776.

e. DOE brought the Group 5 areas into physical

compliance with 6 CCR 1007-3, Parts 262 and 265 by September 29, 1991.

f. DOE received approval from CDH on September 20, 1991, to store backlog mixed residues in the Group 6 area.

g. DOE completed hazardous waste determinations for residues on February 26, 1992. DOE submitted a characterization schedule for analytical verification of selected residues on March 31, 1992.

h. DOE achieved physical compliance with 6 CCR 1007-3 Part 262 requirements for 90-day and satellite accumulation areas on August 30, 1991.

i. DOE submitted the initial waste analysis plan for backlog mixed residue container storage areas on October 29, 1991.

j. DOE completed training for mixed residue generators and handlers on October 29, 1991.

k. DOE achieved compliance with operating record requirements for backlog mixed residue container storage areas on August 30, 1991.

l. DOE achieved compliance with recordkeeping and reporting requirements for backlog mixed residues on August 30, 1991.

m. DOE completed a standardized backlog mixed residue container storage area closure plan on September 27, 1991.

n. Pursuant to an agreement reached during settlement discussions, DOE submitted a backlog mixed residue tank systems management plan to CDH on March 31, 1992. On August 17, 1992, DOE submitted modifications to this plan.

o. Pursuant to an agreement reached during settlement discussions, DOE submitted a Class II permit modification to its contingency plan on November 26, 1991.

p. DOE submitted a Part A and Part B permit modification to add, inter alia, backlog mixed residue storage and treatment units to its CHWA permit on June 30, 1992.

q. On October 29, 1991, DOE submitted a waste minimization status report.

r. Pursuant to an agreement reached during settlement discussions, on February 28, 1992, DOE submitted the Mixed Residue Reduction Report required by paragraph 11 of the July 1991 Order to

CDH. In that Report, DOE stated its belief that it is not feasible to eliminate the inventory of many types and classes of backlog mixed residues by January 1, 1999, and submitted information in support of its belief, as well as a schedule for eliminating those backlog mixed residues. On November 13, 1992, DOE submitted an annual update to the Mixed Residue Reduction Report ("November 1992 Annual Update") to CDH.

16. CDH acknowledges receipt of the various documents described in Paragraph 15 on the dates described and acknowledges reaching the various agreements described above. CDH has approved, or approved with modifications, each of the documents described above, except for the tank systems management plan and the Part B permit modification. DOE has accepted those CDH approvals, including the modifications. CDH makes no findings as to the accuracy of other DOE representations described in Paragraph 15.

17. DOE has informed CDH that issues relating to the various alternatives for removing the backlog mixed residues, constraints on funding, scheduling and permitting, constraints on plutonium management, and constraints on management and removal after processing of backlog mixed residues would need to be resolved and that at least the following would have to occur in order for DOE to begin removal of the backlog mixed residues (and the TRU-mixed wastes generated by their processing):

a. the National Environmental Policy Act ("NEPA") process relating to the removal of backlog mixed residues and any litigation related to that NEPA process would have to be concluded;

b. construction with respect to any facility or method required for processing the respective backlog mixed residues would have to be completed;

c. means of processing the respective backlog mixed residues would have to be developed;

d. the NEPA process relating to facility construction for processing and any litigation related to that NEPA process would have to be concluded;

e. final and effective permits for processing of the backlog mixed residues, as necessary, would have to be issued;

f. sufficient space for the storage of backlog mixed residues and the wastes generated by their processing would have to be built, and final, effective permits of a sufficient term for storage in such space would have to be issued;

g. all necessary transportation technologies would have to be developed and all necessary certifications for

transportation technology would have to be approved;

h. the backlog mixed residues (and the TRU-mixed wastes generated by their processing) that are the subject of this Order would have to be allowed to be transported from the Plant;

i. WIPP or other disposal facilities would have to be available and would have to accept shipments from the Plant.

In addition to the foregoing, DOE has advised CDH that even if all of the above occurs in a timely manner, it will not be able to remove all of the backlog mixed residues (or the TRU-mixed wastes generated by their processing) that are the subject of this Order before January 1, 1999. DOE has further advised CDH that other technical problems not now anticipated that arise in the future may further delay the removal of the backlog mixed residues (and the TRU-mixed wastes generated by their processing) that are the subject of this Order from the Plant.

18. CDH agrees that DOE has made the representations described in Paragraph 17 above. CDH does not agree at this time that all of the events described in Paragraph 17 must occur for DOE to remove the backlog mixed residues from the Plant. In particular, CDH has informed DOE that DOE may need to consider developing an interim storage facility for mixed residues and TRU-mixed wastes pending the availability of a final disposal facility. While DOE is evaluating interim storage options for other forms of mixed wastes, DOE has informed CDH that it is not currently considering such off-site storage for the backlog mixed residues. CDH also disagrees that NEPA can excuse non-compliance with this Order or any requirement of CHWA or any other environmental law. CDH is not making a determination at this time as to whether the non-occurrence of any of the events described in Paragraph 17 does or could constitute a force majeure. If, in implementing the requirements of this Order, DOE asserts that the non-occurrence of one or more of the events described in Paragraph 17 constitutes a force majeure event, CDH reserves the right to determine at that time that it does not.

19. CDH has completed its review of the Mixed Residue Reduction Report and the November 1992 Annual Update, and has made the following general findings regarding the scheduling for removing the backlog mixed residues from the Plant:

a. many of the IDCs will require some processing prior to transporting them offsite;

b. although the nature and extent of this processing has not yet been determined precisely, much of the processing is required to meet certain radioactive materials transportation and container requirements, or to

meet the acceptance criteria of WIPP or some other site;

c. in response to the July 1991 Order, DOE has formed an "Efficiencies Working Group" that is investigating the possibility of obtaining amendments or exemptions to certain of the regulatory requirements referred to in the preceding sub-paragraph, and is also investigating options for working more efficiently within the existing regulatory restrictions;

d. if the Efficiencies Working Group is successful in obtaining exemptions or amendments to some of the regulatory requirements, the nature and amount of processing proposed in presently identified alternatives for certain IDCs may be dramatically reduced or even eliminated, with correspondingly significant reductions in the time needed to prepare those IDCs for removal from the Plant and to ship them;

e. even if no exemptions or amendments are obtained, there are still substantial uncertainties regarding the precise nature and extent of processing required to prepare individual IDCs for shipment;

f. some of the existing processing facilities at the Plant that may have to be used to prepare particular IDCs for shipment are obsolete, and can be operated in compliance with CHWA requirements only with great difficulty and expense, if at all;

g. to the extent that such obsolete facilities would be required to process some of the IDCs at the Plant, it is likely preferable to build new processing facilities that comply with applicable regulatory requirements to replace the obsolete facilities;

h. building new processing facilities and processing certain IDCs, if necessary, will take a substantial amount of time;

In light of the findings contained in sub-paragraphs (a) through (h) above, CDH finds that it is not possible to establish a detailed schedule for removal of individual IDCs at this time. Therefore, CDH concludes that it is not appropriate to establish any dates for removal of any of the backlog mixed residues (or any of the TRU-mixed wastes generated by their processing) at this time.

20. DOE has informed CDH that responsibility for managing backlog mixed residues under this Order has been transferred from DOE's Office of Defense Programs to the Office of Environmental

Restoration and Waste Management, and that DOE intends to take such action as is necessary to reflect the requirements of this Order in annual updates of its Environmental Restoration and Waste Management Plan ("5-Year Plan"). DOE has further informed CDH that it intends to make the activities and related milestones in the 5-Year Plan consistent with the requirements of this Order; it is also DOE's intent to ensure that the 5-Year Plan be drafted such that the requirements of this Order are incorporated into the DOE planning and budget process. Nothing in the 5-Year Plan shall be construed to affect the provisions of this Order.

21. DOE has further informed CDH that the Project Managers for DOE and EG&G identified pursuant to this Order (Paragraph 36) intend to consult with CDH in formulating their work packages for the work to be performed pursuant to this Order. The Project Managers for DOE and EG&G are not required by this Order to provide CDH with cost estimates of the work to be performed. Nothing in this Order shall be construed to limit any authority CDH may have to seek such cost estimate information or any budgetary information pursuant to applicable law, including RCRA, CHWA, or the Colorado or Federal Rules of Civil Procedure, nor shall DOE's defenses thereto be limited by this Order. The purpose of the consultation described under this Paragraph is to help ensure that DOE plans and proposes activities to meet its legal obligations under this Order. DOE has further informed CDH that the Project Managers for DOE and EG&G intend to consult with CDH within six weeks after submission of the President's budget to Congress; and within four weeks after enactment of the legislation appropriating funds to implement this Order.

22. DOE's storage of backlog mixed residues without a permit or interim status is a violation of § 25-15-308, C.R.S. (1989 & 1992 Supp.).

23. The Mixed Residue Compliance Plan submitted on September 28, 1990, did not meet the requirements of the November 1989 Order, as detailed in Attachment A of the July 1991 Order. Consequently, DOE violated the November 1989 Order.

24. On October 6, 1992, the Federal Facilities Compliance Act of 1992, Pub. L. No. 102-386 ("the FFC Act"), became law. This legislation amended the waiver of sovereign immunity found in RCRA § 6001 to extend that waiver to include civil and administrative penalties for violations of state hazardous waste laws. The Act made explicit that the waiver extends to administrative orders and to all aspects of hazardous waste management. The Act also mandated that DOE develop mixed waste treatment plans for each of its facilities for approval by the appropriate regulatory authority (in the case of Rocky Flats, CDH is the appropriate regulatory authority). The Act provides that the state may waive the requirement for a mixed waste treatment plan at a given facility if

it enters into an agreement with DOE that addresses compliance with RCRA section 3004(j) regarding mixed waste at that facility and issues an order requiring compliance with the agreement.

25. In light of the provisions of the Act described above, information provided to CDH by DOE since July 31, 1991 (including information contained in the Mixed Residue Reduction Report and the November 1992 Annual Update), and the findings contained in Paragraph 19, CDH finds that resolution of the violations and issues alleged in CDH v. DOE, No. 91-B-1326 (D. Colo.), and this Order without further litigation is in the public interest, and that this Order is the most appropriate and efficient means of resolving these claims and addressing the requirements of the Act described above.

ORDER

26. In order to resolve disputes which have arisen based on the foregoing unilateral findings of fact and conclusions of law, the November 1989 and July 1991 Orders are hereby superseded, and DOE and EG&G are instead ordered and agree to comply with the following:

a. DOE and EG&G shall timely and adequately implement the Mixed Residue Reduction Program ("MRRP"), which is hereby incorporated into this Order. The MRRP shall provide for the following:

1. processing of the backlog mixed residues to put them in a shippable and/or disposable form as expeditiously as reasonably possible; and

2. removal from the Plant of the backlog mixed residues and the TRU-mixed wastes generated by their processing as expeditiously as reasonably possible once a final off-site disposal facility becomes available. DOE may remove, but is not required by this Order to remove, the backlog mixed residues and the TRU-mixed wastes generated by their processing to an off-site interim storage or treatment facility.

b. The MRRP consists of the Mixed Residue Reduction Report as updated by the November 1992 Annual Update and as modified by CDH comments dated April 14, 1993, and accepted by DOE; approved quarterly progress reports described in subparagraph 26(c); and approved annual updates described in subparagraph 26(d).

c. Commencing July 1, 1993, and quarterly thereafter, DOE and EG&G shall submit quarterly progress reports on the MRRP. The quarterly progress reports shall summarize the status of

ongoing activities for each IDC, as well as tasks that are not related to a particular IDC. They may also propose for CDH review and approval the consideration, elimination or selection of management alternatives for particular IDCs; modifications to existing tasks; and addition of new tasks. Upon approval, quarterly progress reports become part of the MRRP and are incorporated into this Order.

d. Commencing July 1, 1994, and annually thereafter, DOE and EG&G shall submit an annual update to the MRRP. The annual update shall consist of a summary of the current status of the MRRP, together with that quarter's quarterly progress report. The current status summary shall include a narrative description and schedule.

e. CDH, DOE and EG&G (hereafter the "Parties") agree that CDH and DOE have as their mutual goal the removal of backlog mixed residues and the TRU-mixed wastes generated by their processing from the Plant for final off-site disposal. The Parties further recognize that this goal may be achieved more efficiently in the context of a more comprehensive agreement with CDH that also addresses compliance with the FFC Act for all other mixed wastes at the Plant. The Parties therefore agree that they will use their best efforts to transfer the obligations of Paragraph 26(a) through (d) above to a single agreement and order or plan and order that also addresses actions needed to comply with the FFC Act for all other mixed wastes at the Plant.

f. DOE and EG&G shall timely and adequately implement the following deliverables (described more fully in Paragraph 15 of this Order):

generators

i. the proposal for alternate methods for storage in glove boxes to achieve compliance with the requirements of 6 CCR 1007-3, Parts 262 and 265; interim status

ii. the schedule for complying with aisle space requirements consistent with established radiation exposure guidelines, and the implementation schedule for secondary monitoring instrumentation for Group 3 vaults;

iii. the schedule for complying with aisle space requirements consistent with established radiation exposure guidelines, and the implementation schedule for secondary monitoring instrumentation for Group 4 vaults;

iv. the schedule for completion of characterization activities for backlog mixed residues. DOE shall submit for CDH approval changes to hazardous waste determinations for backlog mixed residues as characterization activities are completed.

g. DOE and EG&G shall timely and adequately implement the Mixed Residue Tank Systems Management Plan ("Plan"), once it

has been approved. CDH shall review this Plan against the following requirements: The Plan shall describe how the backlog mixed residue tank systems will be brought into compliance with 6 CCR 1007-3, Part 264, Subpart J for each of the following categories of tank systems (for purposes of categorization, the phrase "operationally empty" means the condition of the tank following use of the existing installed system to remove as much of the material from the tank as is possible. Operationally empty tanks may contain varying amounts of material, depending on tank system design. All mixed residue tank systems that contain TRU or low-level mixed waste will be indicated for each of the categories.):

i. tank systems that had inventory as of August 17, 1992, will be operationally empty by August 13, 1993, and are destined for closure;

ii. tank systems that had inventory as of August 17, 1992, have been included in the permit modification for the Rocky Flats CHWA permit, will not be operationally empty by August 13, 1993, and are destined for closure;

iii. tank systems that were operationally empty as of August 17, 1992, and are destined for closure;

iv. tank systems that are not destined for closure on or after August 13, 1993, and that have been included in the permit modification for the Rocky Flats CHWA permit;

v. tank systems that will be operated as 90-day accumulation areas.

The Plan shall describe the status of compliance with 6 CCR 1007-3, Part 264, Subpart J for each of the tank systems listed above. The Plan shall include management procedures for tank systems in categories g.i. -- g.iii. above that shall be followed until closure. The Plan shall also include a schedule for submittal of closure plans for tanks destined for closure, and a justification for the schedule. The Plan shall include methods to bring the tank systems in g.ii., g.iv. and g.v. into compliance with 6 CCR 1007-3, Part 264, Subpart J. If any of the tank systems require the use of alternate methods to achieve compliance, the alternate methods shall be described in detail. The Plan shall also include a schedule of dates on which the backlog mixed residue tanks destined for permitting or use as 90-day accumulation areas will be in full compliance with 6 CCR 1007-3, Part 264, Subpart J.

DOE and EG&G shall further submit an update to this Plan on July 30, 1993, and annually thereafter, for CDH review and approval. The annual update shall report the current status of progress in implementing the Plan, and shall propose revisions in schedules as appropriate.

Submission of the permit modification described in Paragraph 15(p), together with submission and compliance with the Plan, and any annual updates thereto, shall constitute compliance with the obligations to obtain a permit under RCRA and the CHWA and the scope of the RCRA permit requirements of the CHWA regulations (6 CCR 1007-3, Parts 100.10 and 100.43(c) and (d)) for the tanks included in the Plan, until a final determination is made by CDH on the permit modification described in Paragraph 15(p).

h. If any of the backlog mixed residues (or the TRU-mixed wastes generated by their processing) are determined to not be (or no longer be) hazardous wastes, they shall no longer be subject to the requirements of this Order.

i. After CDH has determined that a particular requirement of this Order has been met, CDH shall promptly provide DOE and EG&G with a written notice to that effect. CDH shall use its best efforts to provide such notice within 45 days of the particular date of compliance. Such notice shall specify the Paragraph(s) of this Order that have been so met. Subsequent violations of the particular requirement of this Order identified in such notice and any violations of approved deliverables that are required under the regulations (e.g., violations of any approved closure plans, permits, approved waste analysis plans, etc.) are not considered violations of the requirements of this Order, and shall be enforced through CDH's usual administrative and judicial mechanisms.

27. Storage areas identified for permitting that have no current inventory cannot be used for storage of backlog mixed residues until such time as they receive a permit or are expressly approved for such storage by CDH in accordance with the MRRP.

28. Low level mixed wastes generated from processing of backlog mixed residues pursuant to the MRRP shall be managed under the agreement and order or plan and order that supersedes the existing FFCA between DOE and EPA, Docket No. RCRA (3008) VIII-89-25, and shall not be subject to the requirements of this Order. Further, the volume of mixed wastes generated by the processing of the backlog mixed residues shall not be added to the volume of other mixed wastes for purposes of determining compliance with the Plant-wide interim status capacity limits for low-level mixed and TRU-mixed wastes established by Settlement Agreement and Compliance Order on Consent No. 89-07-10-01; provided that the interim status storage limits for individual storage units may not be exceeded.

29. Pursuant to 42 U.S.C. § 6940(b)(5), CDH waives the requirement for DOE to submit the plan required under 42 U.S.C. § 6940(b)(1) with respect to the backlog mixed residues and TRU-mixed wastes generated by their processing covered under the MRRP. It is CDH's and DOE's intention that the MRRP required as part of this

Order will fulfill the requirements of 42 U.S.C. § 6940(b)(5) for an agreement and order addressing compliance with section 3004(j) of RCRA, 42 U.S.C. § 6924(j), for wastes covered thereunder. CDH will provide notice and an opportunity to comment on any proposal to select a management alternative for any IDC, and will consult with the EPA Administrator and affected states regarding such proposals. Consistent with the goal and intentions of the Parties as stated in Paragraph 26.e, this Paragraph shall remain in effect until such time as the obligations concerning the backlog mixed residues and TRU-mixed wastes generated by their processing are transferred to a plan prepared and agreement issued pursuant to 42 U.S.C. § 6940(b)(1), or to any other agreement reached by DOE and CDH concerning compliance with LDR obligations in the future with respect to mixed wastes at the Plant (including the backlog mixed residues and TRU-mixed wastes generated by their processing).

30. This Order shall apply to and be binding upon the Parties, their successors in interest and assigns. The undersigned representatives certify that they are authorized by the Party or Parties whom they represent to enter into this Order and to execute and legally bind that Party or Parties to the terms and conditions of this Order. Upon termination of EG&G's contract with DOE, however, EG&G shall no longer be a Party to this Order and shall incur no further obligation under this Order.

31. The treatment and removal of the backlog mixed residues will take many years and may be affected by a number of future events. The Parties therefore reserve the right to modify this Order in the future by mutual written agreement..

IMPLEMENTATION PROVISIONS

32. In order to assure effective performance of the requirements of this Order, the Parties have agreed to recognize the following division of responsibilities between DOE and EG&G for purposes of meeting the terms of this Order:

a. The Department of Energy acknowledges its responsibility for hazardous waste management activities at the Plant, including sole responsibility for funding, policy, capital expenditures and programmatic (including programmatic scheduling) decisions.

b. EG&G acknowledges its responsibility for hazardous waste management activities other than those described above as within DOE's sole responsibility or as governed by the decisions made by DOE.

33. Notwithstanding the preceding Paragraph, DOE is obligated to comply with every requirement of this Order.

FUNDING

34. In the event that EG&G is unable to comply with the requirements of this Order due to the lack of timely and adequate funding under its contract with DOE for the particular requirement at issue, it is agreed that EG&G shall not be required to provide funding itself, or obtain funding from other sources, in order to complete performance. DOE and EG&G shall bear the burden of proving that the lack of funding is due to factors beyond the control of EG&G.

35. If appropriated funds are not available to fulfill DOE's obligations under this Order, the Project Managers identified pursuant to Paragraph 36 shall meet promptly to discuss whether the Parties can reach accommodation on adjustments to deadlines that require the payment or obligation of such funds. DOE may also utilize the process set forth in the Resolution of Disputes Section to see if the Parties can reach accommodation on a modification of this Order based on the unavailability of appropriated funds. CDH's willingness to make such accommodations, if any, shall not be construed as a waiver of its position set forth below that lack of funding does not excuse DOE from meeting its obligation to comply with the requirements of applicable law, including the requirements of this Order. CDH and DOE further agree that in any administrative or judicial proceeding seeking to enforce the terms of this Order and/or to find DOE in contempt for failure to comply or for delay in compliance with such terms, DOE may raise as a defense that such failure or delay was caused by the unavailability of appropriated funds. In particular, nothing herein shall be construed as precluding DOE from arguing that no provision of this Order shall be interpreted to require the obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341. While the State of Colorado disagrees that an Anti-Deficiency Act defense, or any other defense based on lack of funding, exists, the Parties do agree and stipulate that it is premature at this time to raise and adjudicate the existence of such a defense.

36. Within ten (10) days of the effective date of this Order, CDH, EG&G and DOE shall each designate a Project Manager. Each Party shall notify the other Parties in writing of the Project Manager it has selected. Each Project Manager shall be responsible for overseeing the implementation of this Order. Any Party may change its designated Project Manager by notifying the other Parties, in writing, ten (10) days before the change, to the extent possible. Except in unusual circumstances, communications between the Parties concerning the terms and conditions of this Order shall

be directed through the Project Managers.

37. The Project Managers shall meet monthly, or as otherwise agreed by them, to discuss progress and problems relating to all work under the Order. In particular, during such monthly meetings, DOE and EG&G shall provide CDH with a brief written summary of the status of the actions taken to achieve compliance, and the status of those actions planned to achieve compliance with this Order. CDH, DOE and EG&G shall use their best efforts to provide advance notice, verbally or in writing, of potential controversies or issues, and to work informally to resolve them, without invoking dispute resolution.

NOTIFICATION

38. Unless otherwise specified, any report or submittal provided by DOE pursuant to a requirement identified in or developed under this Order shall be hand delivered or sent by first-class mail, with a certificate of delivery or mailing, to the address of the CDH Project Manager. To be timely, such report or submittal must be received by CDH on the date it is due.

39. One copy of all documents to be submitted pursuant to this Order shall be sent to each of the Project Managers at the addresses stated below. Any Party may request additional copies of any document submitted pursuant to this Order.

SECTION CHIEF, MONITORING AND ENFORCEMENT
SECTION
HAZARDOUS MATERIALS AND WASTE MANAGEMENT DIVISION
COLORADO DEPARTMENT OF HEALTH, HMWMD-HWC-B2
4300 CHERRY CREEK DRIVE SOUTH
DENVER, CO 80222-1530

MIXED RESIDUES PROJECT MANAGER, DOE
US DOE ROCKY FLATS PLANT
BOX 928
GOLDEN, CO 80402-0928

MIXED RESIDUES PROJECT MANAGER
EG&G ROCKY FLATS, INC.
BOX 464
GOLDEN, CO 80402-0464

SUBMITTAL, REVIEW AND APPROVAL OF DELIVERABLES

40. Unless otherwise noted, each deliverable shall be transmitted directly to the CDH Project Manager responsible for implementation of this Order.

41. The review and approval/disapproval process for each deliverable identified in Paragraph 26(c), (d), (f) and (g) shall be as set forth in this Paragraph:

(a) CDH shall either (1) approve each of these deliverables as submitted; (2) disapprove the deliverable and return it to DOE and EG&G with comments; or (3) conditionally approve the deliverable and return it to DOE and EG&G with comments. Comments shall be provided in a timely manner with adequate specificity so that DOE and EG&G can make the appropriate changes to the deliverable. The CDH comments shall specify a reasonable time, in light of the nature of the comments, by which DOE must submit the revised deliverable. This time may be extended by mutual agreement of the Parties.

(b) In the event that CDH returns the deliverable to DOE and EG&G with comments, DOE shall incorporate the comments and shall resubmit the deliverable as appropriate; or, in the event DOE disagrees with CDH comments, DOE and EG&G may enter the dispute resolution process no later than half-way through the period allowed by CDH to submit a revised deliverable, or twenty (20) days after receipt of CDH comments, whichever is less, but in no event shall such time be less than fourteen (14) days. This time may be extended by mutual agreement of the Parties. Failure to enter the dispute resolution process within such time frame shall constitute a waiver of DOE's and EG&G's right to invoke dispute resolution, but shall not constitute a waiver of DOE's and EG&G's right to dispute the comments. For purposes of this Paragraph, DOE and EG&G may incorporate CDH comments by addendum, erratum, amending correspondence, or any other appropriate means.

(c) Where DOE and EG&G do not invoke dispute resolution, CDH agrees to use its best efforts to respond to the resubmitted document or the original documents as supplemented by the response within thirty (30) days of receipt. If the resubmitted document or response is adequate, or only minor modifications are necessary, CDH will approve it (or modify and approve it) and so notify DOE and EG&G. In the event that CDH determines that the resubmitted document or the response is incomplete or inadequate, CDH may determine this to be a violation of this Order and may take any enforcement action available to it under applicable law.

(d) Unless notified to the contrary in writing by CDH within thirty (30) days of receipt, DOE and EG&G are entitled to proceed with work described in any deliverable after such time

under the assumption that the information submitted is generally acceptable. DOE recognizes that such work remains subject to CDH's review and approval and that DOE may be required to modify or undo work performed without CDH approval. Any such work undertaken pending CDH review and approval shall not constitute a violation of this Order.

INABILITY TO PERFORM

42. If DOE or EG&G is or may be unable to comply with any requirement of this Order for good cause, which includes a "force majeure" event, DOE may request of CDH a modification of that requirement.

43. As soon as practicable after DOE knows that any requirement of this Order will not be met for good cause, DOE shall promptly notify the other Project Managers in writing. Such notice shall describe the cause and duration of the anticipated delay, the measures taken or to be taken to mitigate the anticipated delay, and a revised schedule for meeting the requirement. DOE may also state in such notice that it constitutes a written statement of dispute for purposes of initiating the dispute resolution process.

44. DOE may propose to modify approved schedules for the processing and/or removal of backlog mixed residues in order to efficiently process other mixed wastes not regulated under this Order. Such a proposal, if technically supported, shall constitute "good cause" to modify this Order.

45. DOE shall bear the burden of proof under this Section that good cause warrants a modification of a requirement of this Order.

46. In any administrative or judicial proceeding seeking to enforce the terms of this Order and/or to find DOE in contempt for failure to comply or for delay in compliance with such terms, DOE may raise as a defense that such failure or delay was caused by a "force majeure" event.

47. A "force majeure" is defined as any event or circumstance arising from causes beyond the reasonable control of the Party that cannot be overcome by due diligence and that causes a delay in or prevents the performance of any obligation under this Order.

51. If agreement cannot be reached on any issue within the informal Dispute Resolution period, the disputing Party shall forward the written statement of dispute to the Dispute Resolution Committee ("DRC"), thereby elevating the dispute to the DRC for resolution.

52. The DRC will serve as a forum for resolution of disputes for which agreement has not been reached through informal Dispute Resolution. The DRC shall be comprised of a DOE Assistant Manager, EG&G's Associate General Manager, Environmental and Waste Management, and CDH's Hazardous Materials and Waste Management Division Director (or their respective delegates). Written notice of any delegation of authority from a Party's designated representative shall be provided to the other Party pursuant to the procedures in Paragraphs 38 and 39. The DRC shall have fourteen (14) days from receipt of the written statement(s) of dispute to resolve the dispute. During this period the DRC shall meet as necessary to discuss and attempt resolution of the dispute. The Parties may agree to use a technical support group as described above to help resolve the dispute.

53. Any mutually agreed upon resolution shall be issued in writing, and signed by all DRC members or their delegates. Such writing shall operate as a modification of this Order. If unanimous resolution of the dispute is not reached, the Division Director for CDH shall forward a written statement of CDH's determination with respect to the dispute to DOE and EG&G. Such written statement shall constitute final agency action subject to judicial review pursuant to § 24-4-106, C.R.S.

54. The time period for completion of any work directly affected by a good-faith dispute shall be extended for at least a period of time equal to the actual time taken to resolve it through informal dispute resolution or formal dispute resolution by the DRC, including fifteen (15) days after receipt of the written statement of the CDH Division Director. All elements of the work required by this Order which are not directly affected by the dispute shall continue and be completed in accordance with the Order.

55. In attempting to resolve any dispute under this Section, the Parties may, by unanimous written agreement, modify or waive the procedures of this Section as appropriate, including but not limited to an extension of the times set forth herein.

RELEASES AND RESERVATIONS

56. State of Colorado, through CDH, hereby releases,

covenants not to sue and not to bring any civil or administrative action against EG&G, its officers, directors or employees, the United States or any department, agency, officer or employee thereof, or their successors or assigns, with respect to violations of RCRA or the CHWA involving the backlog mixed residues occurring prior to the effective date of this Order, the essential elements of which were known to the State of Colorado as of the date of this Order, including any violations of the November 1989 or July 1991 Orders; provided, that nothing in this Order shall release EG&G or DOE from any liability for any violation cited in the Notice Of Violation issued by CDH to EG&G on June 17, 1992 ("June 17, 1992 NOV"). The violations cited in the June 17, 1992 NOV shall be resolved in a subsequent compliance order or other enforcement action, if any, and not enforced through this Order.

57. So long as DOE and EG&G are in compliance with the requirements of this Order, CDH agrees not to bring any other civil or administrative action regarding the treatment or storage of backlog mixed residues (or the TRU-mixed wastes generated by their processing) without a permit on or after the effective date of this Order.

58. If DOE or EG&G are in violation of this Order, CDH reserves whatever rights it has to take any administrative or judicial action it deems necessary, including imposing administrative penalties, issuing administrative compliance orders, seeking injunctive relief, and seeking civil judicial penalties, to enforce the requirements of this Order. DOE and EG&G reserve all rights, remedies and defenses available to them to challenge, defend against or otherwise contest any such action, except that DOE and EG&G agree not to contest CDH's authority or jurisdiction to issue this Order.

59. CDH shall provide DOE and EG&G with written notice at least two business days before taking any action pursuant to Paragraph 58. Such notice need not be provided if delay in taking such action would result in an emergency involving hazardous waste that presents an immediate and substantial threat to the public health and safety or the environment.

60. DOE and EG&G release the State of Colorado and its departments, agencies, officers and employees from any claims they may have regarding the November 1989 and July 1991 Orders; Civil Action No. 91-B-1326; or this Order. DOE and EG&G reserve any rights they may have to challenge any action CDH takes in implementing the requirements of this Order.

61. It is understood and agreed that DOE and EG&G have expressly disputed, and do not admit any violations or wrongdoing in connection with, the allegations of the Amended Complaint in CDH v. DOE, No. 91-B-1326 (D. Colo.), and the factual findings or

conclusions of law of this Order except as follows: for the purpose of any proceeding to enforce or to interpret this Order, DOE admits that it does not now have a permit or interim status for those existing mixed residues referenced in the Memorandum Opinion and Order of August 13, 1991, at page 13, in Sierra Club v. DOE, 89-B-181 (D. Colo.). Further, all Parties agree that EG&G is not responsible for the prior policy decision to accumulate and store the backlog mixed residues at the Plant.

62. If any requirements of this Order are declared void and unenforceable as beyond CDH's authority, the balance of the requirements of this Order and the releases and limitations of Paragraphs 56 (with respect to then outstanding and future violations only), 57 and 60 shall no longer be effective. Under such circumstances, CDH reserves whatever rights it has to take any administrative or judicial action it deems necessary, including imposing administrative penalties, issuing administrative compliance orders, seeking injunctive relief, and seeking civil judicial penalties, to remedy then outstanding violations of RCRA or the CHWA. DOE and EG&G reserve all rights, remedies and defenses available to them to challenge, defend against or otherwise contest any such action.

63. a. Notwithstanding the fact that DOE is not required by this Order to remove the backlog mixed residues and the TRU-mixed wastes generated by their processing to an off-site interim storage or treatment facility, and notwithstanding Paragraphs 56 (with respect to then outstanding and future violations only) and 57, CDH may, after following the procedure set forth in Paragraph 63(b), take any action, against DOE only, otherwise available to it (including, but not limited to, issuing administrative orders, imposing administrative penalties, seeking injunctive relief, and seeking civil judicial penalties) to compel removal of the backlog mixed residues or the TRU-mixed wastes generated by their processing, upon occurrence of any of the following conditions:

i. DOE fails to submit to the Administrator of EPA by December 31, 1999, an application pursuant to section 8(d)(1)(A) of Pub. L. No. 102-579 for certification of compliance with final disposal regulations;

ii. DOE is unable to initiate disposal at WIPP due to failure to comply with the requirements of section 7(b) or the time limits of section 8(d) of Pub. L. No. 102-579;

iii. DOE is required pursuant to section 9(b), 9(c) or 10(b) of Pub. L. No. 102-579 to implement the retrieval plan provided for in section 5(c) of Pub. L. No. 102-579;

iv. the disposal phase, as defined in Section 2(6) of Pub. L. No. 102-579, is not initiated by January 1, 2003; or

v. after all appeals are taken or exhausted (including completion of any remands from appeal), DOE is subject to a final administrative or judicial order precluding any further disposal of transuranic waste (including TRU-mixed waste) at WIPP.

b. Prior to taking any action described in Paragraph 63(a) upon the occurrence of the conditions set forth in Paragraph 63(a)(i)-(v), CDH shall provide written notice to DOE of its intent to take such action, and shall engage in good faith negotiations with DOE in an attempt to resolve the dispute over removal of the backlog mixed residues or the TRU-mixed wastes generated by their processing. The period for good faith negotiations described in this Paragraph shall not be less than 30 days. After 30 days, either CDH or DOE may terminate the negotiations by written notice to the other party.

c. DOE reserves all rights, remedies and defenses available to it to challenge, defend against, or otherwise contest any action CDH may take pursuant to Paragraph 63(a).

64. Nothing in this Order shall preclude or restrict any right or authority of the President of the United States contained in 42 U.S.C. § 6961 to exempt the Plant from any provision of this Order.

COMMENT PERIOD, EFFECTIVE DATE AND TERMINATION

65. This Order shall be lodged with the Federal District Court for the District of Colorado after it has been signed by each of the Parties, and the Parties shall simultaneously publish notice of such lodging and the opportunity for public review and comment on the Order for a period of thirty days. If, after review of the comments, the Parties agree in writing that no comments raising substantial issues have been submitted, the Order shall then become effective. If the Parties determine that submitted comments do raise substantial issues, they shall attempt to negotiate appropriate revisions to the Order. If the Parties succeed in negotiating appropriate revisions, they shall sign a revised Order that will then become effective upon the date signed by the last Party. If the Parties cannot negotiate appropriate revisions, or cannot agree that no revisions are needed, within 180 days of the close of the comment period, this Order shall be void ab initio, and each Party reserves any rights, claims, or defenses it may have. Once this Order is effective, CDH and DOE shall promptly stipulate to the dismissal of CDH v. DOE, No. 91-B-1326 (D. Colo.), with prejudice, with each party to bear its own costs and attorneys fees.

66. The obligations of this Order shall terminate upon the completion of all requirements of this Order, or upon unanimous written agreement of the Parties.

FOR THE COLORADO DEPARTMENT OF HEALTH:

DAVID C. SHELTON
Director, Hazardous Materials
and Waste Management Division

DATED: 4/23/93

APPROVED AS TO FORM:

FOR THE COLORADO ATTORNEY GENERAL:

DANIEL S. MILLER
First Assistant Attorney General
Natural Resources Section

DATED: 4/23/93

FOR THE UNITED STATES DEPARTMENT OF ENERGY:

A.H. PAUOLE
Acting Manager
ROCKY FLATS OFFICE

DATED: 4/23/93

FOR EG&G ROCKY FLATS, INC.:

HARRY P. MANN
General Manager
EG&G ROCKY FLATS, INC.

DATED: 4/23/93

EXHIBIT A
Settlement Agreement and Compliance Order on Consent No. 93-04-23-01

CURRENT INVENTORY OF BACKLOG MIXED RESIDUES BY ITEM DESCRIPTION CODE (IDC)

April 15, 1993

Backlog Mixed Residues

IDC	DESCRIPTION	BLDG	ROOM	UNIT	DRUMS	CANS
44	AM AND MISC. OXIDE	371	STACKER	90.100		1
44	AM AND MISC. OXIDE	777	448	90.86		2
50	SKULLS	371	3606	90.2		2
70	NITRATE FEED	771	114	90.22	1	
70	NITRATE FEED	771	149	90.21		2
70	NITRATE FEED	771	159	90.140		13
70	NITRATE FEED	771	164	90.116		1
70	NITRATE FEED	771	180A	90.117		17
70	NITRATE FEED	771	180E	90.119		1
70	NITRATE FEED	771	180F	90.120		7
70	NITRATE FEED	771	180K	90.121		1
70	NITRATE FEED	771	187	90.122		2
70	NITRATE FEED	779	137	90.39		2
92	IMPURE FLUORIDE HEEL	371	STACKER	90.100		19
92	IMPURE FLUORIDE HEEL	777	448	90.86		10
99	GREASE FLUORIDE	777	448	90.86		7
159	SCREENINGS FROM OXIDE	371	STACKER	90.100		144
159	SCREENINGS FROM OXIDE	371	3206	90.9	1	
159	SCREENINGS FROM OXIDE	371	3606	90.2		10
159	SCREENINGS FROM OXIDE	777	448	90.86		5
289	LOW PURITY OXIDE HEEL	371	STACKER	90.100		1
289	LOW PURITY OXIDE HEEL	371	1101	90.12	2	
289	LOW PURITY OXIDE HEEL	371	1208	90.15	1	
289	LOW PURITY OXIDE HEEL	371	1210	90.63	2	
289	LOW PURITY OXIDE HEEL	371	2207	90.5	2	
289	LOW PURITY OXIDE HEEL	371	2325	90.16	3	
289	LOW PURITY OXIDE HEEL	371	3206	90.9	2	
289	LOW PURITY OXIDE HEEL	371	3606	90.2		46
289	LOW PURITY OXIDE HEEL	771	184	90.65		2
289	LOW PURITY OXIDE HEEL	777	448	90.86		49
290	FILTER SLUDGE	371	1111	90.14	2	
290	FILTER SLUDGE	771	ANNEX-S	90.25	2	
290	FILTER SLUDGE	771	172	90.64	1	
290	FILTER SLUDGE	776	127	90.66	1	
290	FILTER SLUDGE	777	430-AREA 3	90.45	26	
290	FILTER SLUDGE	777	483-AREA 8	90.68	1	
292	INCINERATOR SLUDGE	371	STACKER	90.100		2
292	INCINERATOR SLUDGE	777	430-AREA 3	90.45	1	
299	MISC. SLUDGE	371	STACKER	90.100		9
299	MISC. SLUDGE	371	3189	90.1	1	
299	MISC. SLUDGE	371	3206	90.9	1	
299	MISC. SLUDGE	371	3321	90.6	1	
299	MISC. SLUDGE	371	3511	90.71		2
299	MISC. SLUDGE	371	3543	90.4	1	
299	MISC. SLUDGE	371	3606	90.2	1	
299	MISC. SLUDGE	771	172	90.64	1	
299	MISC. SLUDGE	771	184	90.65		2
299	MISC. SLUDGE	771	ANNEX-S	90.25	3	
299	MISC. SLUDGE	776	127	90.66	1	

"REVIEWED FOR CLASSIFICATION"
By S. Rudolph (A)
Date 4/2/93

IDC	DESCRIPTION	BLDG	ROOM	UNIT	DRUMS	CANS
299	MISC. SLUDGE	777	430-AREA 2	90.67	1	
299	MISC. SLUDGE	777	430-AREA 3	90.45	26	
299	MISC. SLUDGE	777	448	90.86		6
320	HEAVY NON-SS METAL (TA, W, PT)	371	1101	90.12	3	
320	HEAVY NON-SS METAL (TA, W, PT)	371	1208	90.15	2	
320	HEAVY NON-SS METAL (TA, W, PT)	371	2325	90.16	1	
320	HEAVY NON-SS METAL (TA, W, PT)	371	3189	90.1	14	
320	HEAVY NON-SS METAL (TA, W, PT)	371	3206	90.9	9	
320	HEAVY NON-SS METAL (TA, W, PT)	371	3321	90.6	1	
320	HEAVY NON-SS METAL (TA, W, PT)	371	3501	90.62	5	
320	HEAVY NON-SS METAL (TA, W, PT)	371	3567A	90.8	2	
320	HEAVY NON-SS METAL (TA, W, PT)	371	3606	90.2		2
320	HEAVY NON-SS METAL (TA, W, PT)	707	G&H HALL	90.60	1	
320	HEAVY NON-SS METAL (TA, W, PT)	771	183	90.129	1	
320	HEAVY NON-SS METAL (TA, W, PT)	771	186	90.32	2	
320	HEAVY NON-SS METAL (TA, W, PT)	776	127	90.66	10	
321	LEAD	771	182	90.24	2	
330	COMBUSTIBLES, DRY	371	3189	90.1	2	
330	COMBUSTIBLES, DRY	371	1101	90.12	1	
330	COMBUSTIBLES, DRY	371	1208	90.15	2	
330	COMBUSTIBLES, DRY	371	1111	90.14	1	
330	COMBUSTIBLES, DRY	371	2325	90.16	6	
330	COMBUSTIBLES, DRY	371	2207	90.5	7	
330	COMBUSTIBLES, DRY	371	3501	90.62	1	
330	COMBUSTIBLES, DRY	371	3206	90.9	2	
330	COMBUSTIBLES, DRY	707	G&H HALL	90.60	5	
330	COMBUSTIBLES, DRY	771	183	90.129	5	
330	COMBUSTIBLES, DRY	771	ANNEX-N	90.25	1	
330	COMBUSTIBLES, DRY	771	ANNEX-S	90.25	5	
330	COMBUSTIBLES, DRY	771	172	90.64	4	
330	COMBUSTIBLES, DRY	776	134	11	1	
330	COMBUSTIBLES, DRY	776	127	90.66	58	
330	COMBUSTIBLES, DRY	777	430-AREA 3	90.45	1	
331	FILTERS, FUL-FLO, NOT FROM INCINERATOR	371	2325	90.16	49	
331	FILTERS, FUL-FLO, NOT FROM INCINERATOR	371	3321	90.6	3	
331	FILTERS, FUL-FLO, NOT FROM INCINERATOR	371	3341	90.7	93	
331	FILTERS, FUL-FLO, NOT FROM INCINERATOR	371	3206	90.9	1	
331	FILTERS, FUL-FLO, NOT FROM INCINERATOR	371	3606	90.2		1
331	FILTERS, FUL-FLO, NOT FROM INCINERATOR	771	181A	90.23	32	
331	FILTERS, FUL-FLO, NOT FROM INCINERATOR	776	127	90.66	9	
332	OILY SLUDGE	371	3206	90.9	1	
333	CALCIUM METAL	771	172	90.64	1	
335	ABSOLUTE DRYBOX FILTERS, NON-ACID CONT.	371	3189	90.1	1	
335	ABSOLUTE DRYBOX FILTERS, NON-ACID CONT.	371	1208	90.15	0	
335	ABSOLUTE DRYBOX FILTERS, NON-ACID CONT.	371	2325	90.16	1	
335	ABSOLUTE DRYBOX FILTERS, NON-ACID CONT.	371	3606	90.2	1	
335	ABSOLUTE DRYBOX FILTERS, NON-ACID CONT.	371	2202	90.5	0	
335	ABSOLUTE DRYBOX FILTERS, NON-ACID CONT.	371	2207	90.5	2	
335	ABSOLUTE DRYBOX FILTERS, NON-ACID CONT.	771	186	90.32	1	

IDC	DESCRIPTION	BLDG	ROOM	UNIT	DRUMS	CANS
335	ABSOLUTE DRYBOX FILTERS, NON-ACID CONT.	776	127	90.66	9	
336	COMBUSTIBLES, WET	371	3189	90.1	3	
336	COMBUSTIBLES, WET	371	2325	90.16	4	
336	COMBUSTIBLES, WET	371	3543	90.4	4	
336	COMBUSTIBLES, WET	371	2207	90.5	3	
336	COMBUSTIBLES, WET	371	3206	90.9	2	
336	COMBUSTIBLES, WET	707	G&H HALL	90.6	2	
336	COMBUSTIBLES, WET	707	F&G HALL	90.61	1	
336	COMBUSTIBLES, WET	771	183	90.129	1	
336	COMBUSTIBLES, WET	771	ANNEX-N	90.25	3	
336	COMBUSTIBLES, WET	771	ANNEX-S	90.25	8	
336	COMBUSTIBLES, WET	776	127	90.66	25	
336	COMBUSTIBLES, WET	777	430-AREA 2	90.67	2	
336	COMBUSTIBLES, WET	779	137	90.39	1	
337	PLASTIC (TEFLON, PVC, ETC.)	371	2207	90.5	2	
337	PLASTIC (TEFLON, PVC, ETC.)	371	3602	90.7	1	
337	PLASTIC (TEFLON, PVC, ETC.)	771	ANNEX-S	90.25	1	
338	FILTER MEDIA	371	3189	90.1	7	
338	FILTER MEDIA	371	1101	90.12	0	
338	FILTER MEDIA	371	2207	90.5	1	
338	FILTER MEDIA	371	2325	90.16	2	
338	FILTER MEDIA	371	3321	90.6	1	
338	FILTER MEDIA	371	3206	90.9	5	
338	FILTER MEDIA	371	3606	90.2		3
338	FILTER MEDIA	771	183	90.129	2	
338	FILTER MEDIA	771	ANNEX-S	90.25	1	
338	FILTER MEDIA	776	127	90.66	8	
339	LEADED DRYBOX GLOVES, NON-ACID CONT.	371	3341	90.7	1	
340	SLUDGE FROM SIZE REDUCTION AREA	371	2325	90.16	1	
340	SLUDGE FROM SIZE REDUCTION AREA	371	3543	90.4	3	
340	SLUDGE FROM SIZE REDUCTION AREA	771	ANNEX-S	90.25	3	
340	SLUDGE FROM SIZE REDUCTION AREA	771	172	90.64	1	
340	SLUDGE FROM SIZE REDUCTION AREA	776	127	90.66	1	
341	LEADED DRYBOX GLOVES, ACID CONT.	371	3189	90.1	3	
341	LEADED DRYBOX GLOVES, ACID CONT.	371	3602	90.7	2	
341	LEADED DRYBOX GLOVES, ACID CONT.	776	127	90.66	2	
341	LEADED DRYBOX GLOVES, ACID CONT.	777	430-AREA 3	90.45	1	
342	ABSOLUTE DRYBOX FILTERS, ACID CONT.	371	3189	90.1	7	
342	ABSOLUTE DRYBOX FILTERS, ACID CONT.	371	3206	90.9	1	
342	ABSOLUTE DRYBOX FILTERS, ACID CONT.	371	3567A	90.8	1	
342	ABSOLUTE DRYBOX FILTERS, ACID CONT.	776	127	90.66	19	
365	SALT FROM BAD DOR RUN	371	STACKER	90.100		16
368	MG OXIDE CRUCIBLE, NOT LECO	371	STACKER	90.100		164
368	MG OXIDE CRUCIBLE, NOT LECO	371	3189	90.1	7	
368	MG OXIDE CRUCIBLE, NOT LECO	371	1111	90.14	1	
368	MG OXIDE CRUCIBLE, NOT LECO	371	3606	90.2	2	
368	MG OXIDE CRUCIBLE, NOT LECO	371	3543	90.4	4	
368	MG OXIDE CRUCIBLE, NOT LECO	371	2207	90.5	1	
368	MG OXIDE CRUCIBLE, NOT LECO	371	3567A	90.8	1	

IDC	DESCRIPTION	BLDG	ROOM	UNIT	DRUMS	CANS
368	MG OXIDE CRUCIBLE, NOT LECO	371	3206	90.9	6	
368	MG OXIDE CRUCIBLE, NOT LECO	771	183	90.129	2	
368	MG OXIDE CRUCIBLE, NOT LECO	771	172	90.64	1	
368	MG OXIDE CRUCIBLE, NOT LECO	771	ANNEX-S	90.25	3	
368	MG OXIDE CRUCIBLE, NOT LECO	776	127	90.66	24	
368	MG OXIDE CRUCIBLE, NOT LECO	777	430-AREA 3	90.45	1	
368	MG OXIDE CRUCIBLE, NOT LECO	777	430-AREA 2	90.67	1	
368	MG OXIDE CRUCIBLE, NOT LECO	777	483-AREA 8	90.68	4	
370	LECO CRUCIBLES	371	3189	90.1	9	
370	LECO CRUCIBLES	371	1101	90.12	0	
370	LECO CRUCIBLES	371	1111	90.14	3	
370	LECO CRUCIBLES	371	1208	90.15	15	
370	LECO CRUCIBLES	371	2207	90.5	9	
370	LECO CRUCIBLES	371	2325	90.16	13	
370	LECO CRUCIBLES	371	3606	90.2	14	
370	LECO CRUCIBLES	371	2223	90.20	2	
370	LECO CRUCIBLES	371	3543	90.4	3	
370	LECO CRUCIBLES	371	2207	90.5	2	
370	LECO CRUCIBLES	371	3321	90.6	25	
370	LECO CRUCIBLES	371	1210	90.63	8	
370	LECO CRUCIBLES	371	3341	90.7	1	
370	LECO CRUCIBLES	371	3206	90.9	5	
370	LECO CRUCIBLES	707	F&G HALL	90.61	1	
370	LECO CRUCIBLES	771	186	90.32	11	
370	LECO CRUCIBLES	776	127	90.66	12	
370	LECO CRUCIBLES	777	430-AREA 3	90.66	20	
370	LECO CRUCIBLES	777	483-AREA 8	90.68	23	
370	LECO CRUCIBLES	777	AREA 10	90.69	1	
371	FIRE BRICK	371	3606	90.2	1	
371	FIRE BRICK	371	3543	90.4	3	
371	FIRE BRICK	371	3501	90.62	5	
371	FIRE BRICK	371	1210	90.63	2	
371	FIRE BRICK	371	3567A	90.8	2	
371	FIRE BRICK	371	3206	90.9	1	
371	FIRE BRICK	777	430-AREA 2	90.67	1	
373	FIRE BRICK HEEL	371	3206	90.9	3	
373	FIRE BRICK HEEL	771	172	90.64	1	
374	BLACKTOP, CONCRETE, DIRT & SAND	776	127	90.66	1	
376	PROCESSED FILTER MEDIA	371	3606	90.2		1
376	PROCESSED FILTER MEDIA	771	ANNEX-S	90.25	2	
376	PROCESSED FILTER MEDIA	776	127	90.66	31	
377	FIRE BRICK, COARSE	371	STACKER	90.100		4
377	FIRE BRICK, COARSE	371	3189	90.1	3	
377	FIRE BRICK, COARSE	371	3606	90.2	1	
377	FIRE BRICK, COARSE	371	3543	90.4	3	
377	FIRE BRICK, COARSE	371	3321	90.6	2	
377	FIRE BRICK, COARSE	371	3501	90.62	1	
377	FIRE BRICK, COARSE	371	1210	90.63	2	
377	FIRE BRICK, COARSE	371	3567A	90.8	4	

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IDC	DESCRIPTION	BLDG	ROOM	UNIT	DRUMS	CANS
377	FIRE BRICK, COARSE	371	3206	90.9	2	
377	FIRE BRICK, COARSE	776	127	90.66	3	
377	FIRE BRICK, COARSE	777	430-AREA 3	90.45	4	
377	FIRE BRICK, COARSE	777	430-AREA 2	90.67	12	
378	FIRE BRICK, PULVERIZED OR FINES	371	STACKER	90.100	-	36
378	FIRE BRICK, PULVERIZED OR FINES	371	1208	90.15	0	
378	FIRE BRICK, PULVERIZED OR FINES	371	2325	90.16	1	
378	FIRE BRICK, PULVERIZED OR FINES	371	2207	90.5	1	
378	FIRE BRICK, PULVERIZED OR FINES	371	1210	90.63	1	
378	FIRE BRICK, PULVERIZED OR FINES	771	186	90.32	1	
387	REBURNED SS&C SWEEPINGS	777	448	90.86		4
390	UNPULVERIZED SLAG	371	2207	90.5	1	
390	UNPULVERIZED SLAG	776	127	90.66	3	
391	UNPULVERIZED SAND & CRUCIBLE	371	STACKER	90.100		147
391	UNPULVERIZED SAND & CRUCIBLE	371	1111	90.14	2	
391	UNPULVERIZED SAND & CRUCIBLE	371	2207	90.5	3	
391	UNPULVERIZED SAND & CRUCIBLE	771	ANNEX-S	90.25	2	
391	UNPULVERIZED SAND & CRUCIBLE	771	172	90.64	2	
391	UNPULVERIZED SAND & CRUCIBLE	771	184	90.65		2
391	UNPULVERIZED SAND & CRUCIBLE	776	127	90.66	3	
391	UNPULVERIZED SAND & CRUCIBLE	777	430-AREA 3	90.45	12	
391	UNPULVERIZED SAND & CRUCIBLE	777	483-AREA 8	90.68	4	
391	UNPULVERIZED SAND & CRUCIBLE	777	448	90.86		1
392	UNPULVERIZED SAND, SLAG, &CRUCIBLE	371	STACKER	90.100		33
392	UNPULVERIZED SAND, SLAG, &CRUCIBLE	371	3189	90.1	30	
392	UNPULVERIZED SAND, SLAG, &CRUCIBLE	371	3606	90.2	1	7
392	UNPULVERIZED SAND, SLAG, &CRUCIBLE	371	2207	90.5	2	
392	UNPULVERIZED SAND, SLAG, &CRUCIBLE	771	183	90.129	9	
392	UNPULVERIZED SAND, SLAG, &CRUCIBLE	771	ANNEX-S	90.25	2	
392	UNPULVERIZED SAND, SLAG, &CRUCIBLE	771	172	90.64	1	
392	UNPULVERIZED SAND, SLAG, &CRUCIBLE	771	184	90.65		2
392	UNPULVERIZED SAND, SLAG, &CRUCIBLE	777	430-AREA 3	90.45	3	
392	UNPULVERIZED SAND, SLAG, &CRUCIBLE	777	430-AREA 2	90.67	14	
392	UNPULVERIZED SAND, SLAG, &CRUCIBLE	777	448	90.86		2
393	SAND, SLAG, & CRUCIBLE HEEL	371	3189	90.1	1	
393	SAND, SLAG, & CRUCIBLE HEEL	371	1111	90.14	1	
393	SAND, SLAG, & CRUCIBLE HEEL	371	3606	90.2	1	
393	SAND, SLAG, & CRUCIBLE HEEL	371	3543	90.4	2	
393	SAND, SLAG, & CRUCIBLE HEEL	371	3321	90.6	1	
393	SAND, SLAG, & CRUCIBLE HEEL	371	3501	90.62	1	
393	SAND, SLAG, & CRUCIBLE HEEL	771	183	90.129	9	
393	SAND, SLAG, & CRUCIBLE HEEL	771	172	90.64	1	
393	SAND, SLAG, & CRUCIBLE HEEL	776	127	90.66	1	
394	SAND FROM BBO	371	STACKER	90.100		10
394	SAND FROM BBO	371	3189	90.1	1	
394	SAND FROM BBO	371	2207	90.5	3	
394	SAND FROM BBO	371	3567A	90.8	1	
394	SAND FROM BBO	771	ANNEX-S	90.25	2	
394	SAND FROM BBO	771	172	90.64	2	

IDC	DESCRIPTION	BLDG	ROOM	UNIT	DRUMS	CANS
395	UNPULVERIZED SLAG & CRUCIBLE	371	STACKER	90.100		8
396	PULVERIZED SLAG	371	STACKER	90.100		1
398	PULVERIZED SAND, SLAG, & CRUCIBLE	371	STACKER	90.100		11
398	PULVERIZED SAND, SLAG, & CRUCIBLE	371	3189	90.1	18	
398	PULVERIZED SAND, SLAG, & CRUCIBLE	771	183	90.129	6	
398	PULVERIZED SAND, SLAG, & CRUCIBLE	771	ANNEX-S	90.25	2	
398	PULVERIZED SAND, SLAG, & CRUCIBLE	771	172	90.64	1	
400	ION COLUMN FEED <5 G/L	771	146	90.83		1
401	ION COLUMN FEED >5G/L	371	3305	90.104		4
401	ION COLUMN FEED >5G/L	771	149	90.21		1
401	ION COLUMN FEED >5G/L	771	180D	90.118		1
401	ION COLUMN FEED >5G/L	771	180K	90.121		4
401	ION COLUMN FEED >5G/L	771	187	90.122		1
401	ION COLUMN FEED >5G/L	779	131	90.49		2
401	ION COLUMN FEED >5G/L	779	137	90.39		3
404	MOLTED SALT, CA, ZN, K	371	1208	90.15	1	
404	MOLTED SALT, CA, ZN, K	371	2223	90.20	1	
404	MOLTED SALT, CA, ZN, K	371	2207	90.5	1	
404	MOLTED SALT, CA, ZN, K	776	127	90.66	1	
405	MOLTEN SALT UNKNOWN % UNPULVERIZED	371	3189	90.1	1	
405	MOLTEN SALT UNKNOWN % UNPULVERIZED	371	1208	90.15	1	
405	MOLTEN SALT UNKNOWN % UNPULVERIZED	371	2207	90.5	4	
405	MOLTEN SALT UNKNOWN % UNPULVERIZED	771	183	90.129	1	
405	MOLTEN SALT UNKNOWN % UNPULVERIZED	771	172	90.64	6	
405	MOLTEN SALT UNKNOWN % UNPULVERIZED	771	186	90.32	1	
405	MOLTEN SALT UNKNOWN % UNPULVERIZED	776	127	90.66	16	
405	MOLTEN SALT UNKNOWN % UNPULVERIZED	777	448	90.86		3
406	MOLTEN SALT UNKNOWN % PULVERIZED	371	STACKER	90.100		24
407	MOLTEN SALT 8% UNPULVERIZED	371	2207	90.5	12	
407	MOLTEN SALT 8% UNPULVERIZED	771	172	90.64	3	
407	MOLTEN SALT 8% UNPULVERIZED	776	127	90.66	3	
407	MOLTEN SALT 8% UNPULVERIZED	777	448	90.86		5
408	MOLTEN SALT 8% PULVERIZED	371	2207	90.5	1	
408	MOLTEN SALT 8% PULVERIZED	371	3567A	90.8	1	
408	MOLTEN SALT 8% PULVERIZED	777	430-AREA 2	90.67	4	
409	MOLTEN SALT 30% UNPULVERIZED	371	STACKER	90.100		4
409	MOLTEN SALT 30% UNPULVERIZED	371	3189	90.1	3	
409	MOLTEN SALT 30% UNPULVERIZED	371	1101	90.12	0	
409	MOLTEN SALT 30% UNPULVERIZED	371	1111	90.14	17	
409	MOLTEN SALT 30% UNPULVERIZED	371	1208	90.15	8	
409	MOLTEN SALT 30% UNPULVERIZED	371	3606	90.2	2	3
409	MOLTEN SALT 30% UNPULVERIZED	371	2223	90.20	16	
409	MOLTEN SALT 30% UNPULVERIZED	371	3543	90.4	18	
409	MOLTEN SALT 30% UNPULVERIZED	371	2207	90.5	89	
409	MOLTEN SALT 30% UNPULVERIZED	371	3501	90.62	10	
409	MOLTEN SALT 30% UNPULVERIZED	371	3511	90.71		14
409	MOLTEN SALT 30% UNPULVERIZED	371	3206	90.9	4	
409	MOLTEN SALT 30% UNPULVERIZED	771	183	90.129	23	
409	MOLTEN SALT 30% UNPULVERIZED	771	ANNEX-S	90.25	11	

IDC	DESCRIPTION	BLDG	ROOM	UNIT	DRUMS	CANS
409	MOLTEN SALT 30% UNPULVERIZED	771	186	90.32	13	
409	MOLTEN SALT 30% UNPULVERIZED	771	172	90.64	48	
409	MOLTEN SALT 30% UNPULVERIZED	776	188	90.82	10	
409	MOLTEN SALT 30% UNPULVERIZED	777	448	90.82		1
410	MOLTEN SALT 30% PULVERIZED	371	STACKER	90.100	-	2
410	MOLTEN SALT 30% PULVERIZED	371	3206	90.9	1	
410	MOLTEN SALT 30% PULVERIZED	777	430-AREA 3	90.45	3	
411	ELECTROREFINING SALT - FINAL DISPOSITION	371	STACKER	90.100		2085
411	ELECTROREFINING SALT - FINAL DISPOSITION	371	3189	90.1	5	
411	ELECTROREFINING SALT - FINAL DISPOSITION	371	1101	90.12	2	
411	ELECTROREFINING SALT - FINAL DISPOSITION	371	3606	90.2	6	98
411	ELECTROREFINING SALT - FINAL DISPOSITION	371	3543	90.4	2	
411	ELECTROREFINING SALT - FINAL DISPOSITION	371	2207	90.5	25	
411	ELECTROREFINING SALT - FINAL DISPOSITION	371	3501	90.62	8	
411	ELECTROREFINING SALT - FINAL DISPOSITION	371	1210	90.63	10	
411	ELECTROREFINING SALT - FINAL DISPOSITION	371	3511	90.71		27
411	ELECTROREFINING SALT - FINAL DISPOSITION	371	3202	90.72		58
411	ELECTROREFINING SALT - FINAL DISPOSITION	371	3567A	90.8	21	
411	ELECTROREFINING SALT - FINAL DISPOSITION	371	3206	90.9	11	
411	ELECTROREFINING SALT - FINAL DISPOSITION	771	183	90.129	1	
411	ELECTROREFINING SALT - FINAL DISPOSITION	771	188	90.82		3
411	ELECTROREFINING SALT - FINAL DISPOSITION	776	127	90.66	62	
411	ELECTROREFINING SALT - FINAL DISPOSITION	777	430-AREA 2	90.67	11	
411	ELECTROREFINING SALT - FINAL DISPOSITION	777	448	90.86		6
411	ELECTROREFINING SALT - FINAL DISPOSITION	777	483-AREA 8	90.68	1	
412	GIBSON SALT	371	2207	90.5	2	
412	GIBSON SALT	771	172	90.64	1	
413	IMPURE SALT FROM CELL CLEANOUT	371	STACKER	90.100		10
413	IMPURE SALT FROM CELL CLEANOUT	371	3189	90.1	8	
413	IMPURE SALT FROM CELL CLEANOUT	371	1101	90.12	1	
413	IMPURE SALT FROM CELL CLEANOUT	371	1208	90.15	2	
413	IMPURE SALT FROM CELL CLEANOUT	371	3606	90.2	1	
413	IMPURE SALT FROM CELL CLEANOUT	371	2207	90.5	4	
413	IMPURE SALT FROM CELL CLEANOUT	371	3511	90.71		155
413	IMPURE SALT FROM CELL CLEANOUT	371	3202	90.72		2
413	IMPURE SALT FROM CELL CLEANOUT	371	3206	90.9	2	
413	IMPURE SALT FROM CELL CLEANOUT	371	3606	90.2	1	36
413	IMPURE SALT FROM CELL CLEANOUT	371	127	90.66	5	
413	IMPURE SALT FROM CELL CLEANOUT	771	186	90.32		
413	IMPURE SALT FROM CELL CLEANOUT	771	188	90.65		3
413	IMPURE SALT FROM CELL CLEANOUT	776	127	90.66	5	
413	IMPURE SALT FROM CELL CLEANOUT	777	430-AREA 3	90.45	1	
413	IMPURE SALT FROM CELL CLEANOUT	777	448	90.86		1
413	IMPURE SALT FROM CELL CLEANOUT	777	AREA 10	90.69	11	
414	DOR SALT. UNOXIDIZED CA	371	3189	90.1	6	
414	DOR SALT. UNOXIDIZED CA	371	1111	90.14	1	
414	DOR SALT. UNOXIDIZED CA	371	1208	90.15	1	
414	DOR SALT. UNOXIDIZED CA	371	3606	90.2	1	15
414	DOR SALT. UNOXIDIZED CA	371	2207	90.5	1	

IDC	DESCRIPTION	BLDG	ROOM	UNIT	DRUMS	CANS
414	DOR SALT. UNOXIDIZED CA	371	1210	90.63	1	
414	DOR SALT. UNOXIDIZED CA	371	3511	90.71		93
414	DOR SALT. UNOXIDIZED CA	371	3202	90.72		2
414	DOR SALT. UNOXIDIZED CA	371	3206	90.9	3	
414	DOR SALT. UNOXIDIZED CA	771	182	90.24	2	
414	DOR SALT. UNOXIDIZED CA	771	186	90.32	1	
414	DOR SALT. UNOXIDIZED CA	771	172	90.64	2	
414	DOR SALT. UNOXIDIZED CA	771	188	90.82		1
414	DOR SALT. UNOXIDIZED CA	776	127	90.66	14	
415	PLUTONIUM CHLORIDE MIXED SALT	371	1101	90.12	0	
415	PLUTONIUM CHLORIDE MIXED SALT	371	1208	90.15	0	
415	PLUTONIUM CHLORIDE MIXED SALT	371	2223	90.20	1	
415	PLUTONIUM CHLORIDE MIXED SALT	371	2207	90.5	5	
415	PLUTONIUM CHLORIDE MIXED SALT	771	186	90.32	2	
416	ZINC-MAGNESIUM ALLOY METAL	371	STACKER	90.100		3
418	MOLTEN SALT PACKAGED FOR LANL	371	3511	90.71	0	12
418	MOLTEN SALT PACKAGED FOR LANL	371	STACKER	90.100		14
418	MOLTEN SALT PACKAGED FOR LANL	371	3606	90.2		6
419	UNPULVERIZED INCINERATOR ASH	771	ANNEX-S	90.25	2	
419	UNPULVERIZED INCINERATOR ASH		172	90.64	1	
420	PULVERIZED INCINERATOR ASH	371	STACKER	90.100		1
420	PULVERIZED INCINERATOR ASH	371	3189	90.1	11	
420	PULVERIZED INCINERATOR ASH	371	1101	90.12	15	
420	PULVERIZED INCINERATOR ASH	371	1111	90.14	13	
420	PULVERIZED INCINERATOR ASH	371	1208	90.15	1	
420	PULVERIZED INCINERATOR ASH	371	2325	90.16	22	
420	PULVERIZED INCINERATOR ASH	371	3606	90.2	25	6
420	PULVERIZED INCINERATOR ASH	371	2223	90.20	45	
420	PULVERIZED INCINERATOR ASH	371	3543	90.4	30	
420	PULVERIZED INCINERATOR ASH	371	2207	90.5	19	
420	PULVERIZED INCINERATOR ASH	371	3321	90.6	92	
420	PULVERIZED INCINERATOR ASH	371	3501	90.62	219	
420	PULVERIZED INCINERATOR ASH	371	1210	90.63	35	
420	PULVERIZED INCINERATOR ASH	371	3341	90.7	7	
420	PULVERIZED INCINERATOR ASH	371	3602	90.70	2	
420	PULVERIZED INCINERATOR ASH	371	3567A	90.8	37	
420	PULVERIZED INCINERATOR ASH	371	3206	90.9	10	
420	PULVERIZED INCINERATOR ASH	771	90.129	183	22	
420	PULVERIZED INCINERATOR ASH	771	182	90.24	1	
420	PULVERIZED INCINERATOR ASH	771	ANNEX-S	90.25	9	
420	PULVERIZED INCINERATOR ASH	771	172	90.64	2	
420	PULVERIZED INCINERATOR ASH	771	186	90.32	11	
420	PULVERIZED INCINERATOR ASH	771	188	90.82		1
420	PULVERIZED INCINERATOR ASH	777	430-AREA 3	90.45	57	
420	PULVERIZED INCINERATOR ASH	777	430-AREA 2	90.67	4	
420	PULVERIZED INCINERATOR ASH	777	448	90.86		2
420	PULVERIZED INCINERATOR ASH	777	483-AREA 8	90.68	35	
420	PULVERIZED INCINERATOR ASH	777	AREA 10	90.69	57	
421	ASH HEEL	371	3189	90.1	1	

IDC	DESCRIPTION	BLDG	ROOM	UNIT	DRUMS	CANS
421	ASH HEEL	371	STACKER	90.100		2
421	ASH HEEL	371	1208	90.15	0	
421	ASH HEEL	371	2325	90.16	114	
421	ASH HEEL	371	2207	90.5	50	
421	ASH HEEL	371	3206	90.9	3	
421	ASH HEEL	771	183	90.129	7	
421	ASH HEEL	771	182	90.24	2	
421	ASH HEEL	771	186	90.32	1	
421	ASH HEEL	771	ANNEX-S	90.25	1	
421	ASH HEEL	776	127	90.66	26	
421	ASH HEEL	777	430-AREA 3	90.45	12	
421	ASH HEEL	777	430-AREA 2	90.67	53	
421	ASH HEEL	777	483-AREA 8	90.68	57	
422	SOOT	371	2325	90.16	2	
422	SOOT	371	3321	90.6	2	
422	SOOT	371	3206	90.9	1	
422	SOOT	771	183	90.129	2	
422	SOOT	771	ANNEX-N	90.25	3	
422	SOOT	771	ANNEX-S	90.25	1	
422	SOOT	776	127	90.66	1	
422	SOOT	777	430-AREA 2	90.67	6	
423	SOOT HEEL	777	430-AREA 2	90.45	1	
426	REBURNED 413	371	1101	90.12	7	
426	REBURNED 413	371	3501	90.62	16	
427	MSE SPENT DICESIUM SALT	371	3189	90.1	1	
427	MSE SPENT DICESIUM SALT	371	2207	90.5		2
427	MSE SPENT DICESIUM SALT	371	3511	90.71		1
427	MSE SPENT DICESIUM SALT	371	3202	90.72		14
427	MSE SPENT DICESIUM SALT	371	3602	90.70		16
427	MSE SPENT DICESIUM SALT	371	3606	90.2		61
427	MSE SPENT DICESIUM SALT	771	188	90.82		10
428	ASH SELECTED FOR MMEC	371	1208	90.15	0	
428	ASH SELECTED FOR MMEC	371	3606	90.2		8
428	ASH SELECTED FOR MMEC	371	2207	90.5		1
429	SCRUB ALLOY SPENT SALT	371	3189	90.1	3	
429	SCRUB ALLOY SPENT SALT	371	3606	90.2	3	1
429	SCRUB ALLOY SPENT SALT	371	2202	90.5	5	
429	SCRUB ALLOY SPENT SALT	371	2207	90.5	2	
429	SCRUB ALLOY SPENT SALT	371	3501	90.62	2	
429	SCRUB ALLOY SPENT SALT	371	3511	90.71		1
429	SCRUB ALLOY SPENT SALT	371	3567A	90.8	4	
429	SCRUB ALLOY SPENT SALT	371	3206	90.9	6	
429	SCRUB ALLOY SPENT SALT	771	183	90.129	1	
429	SCRUB ALLOY SPENT SALT	771	ANNEX-S	90.25	1	
429	SCRUB ALLOY SPENT SALT	776	127	90.66	19	
430	RESIN, UNLEACHED	707	F&G HALL	90.61	1	
430	RESIN, UNLEACHED	771	114	90.22	1	
430	RESIN, UNLEACHED	776	127	90.66	2	
433	SCRUB ALLOY SPENT DICESIUM SALT	776	127	90.66	2	

IDC	DESCRIPTION	BLDG	ROOM	UNIT	DRUMS	CANS
434	FREE CALCIUM CONTAINING SALT	776	152	90.85		5
434	FREE CALCIUM CONTAINING SALT	779	159	90.42		20
434	FREE CALCIUM CONTAINING SALT	779	160	90.43		7
434	FREE CALCIUM CONTAINING SALT	779	160A	90.92		2
435	CE/CA SCRUB ALLOY SPENT SALT	779	159	90.42		11
440	GLASS (EXCEPT RASCHIG RINGS)	371	3189	90.1	16	
440	GLASS (EXCEPT RASCHIG RINGS)	371	2325	90.16	2	
440	GLASS (EXCEPT RASCHIG RINGS)	371	3606	90.2	2	
440	GLASS (EXCEPT RASCHIG RINGS)	371	3321	90.6	5	
440	GLASS (EXCEPT RASCHIG RINGS)	371	3501	90.62	1	
440	GLASS (EXCEPT RASCHIG RINGS)	371	3341	90.7	1	
440	GLASS (EXCEPT RASCHIG RINGS)	771	172	90.64	1	
440	GLASS (EXCEPT RASCHIG RINGS)	776	134	11	1	
440	GLASS (EXCEPT RASCHIG RINGS)	776	127	90.66	6	
440	GLASS (EXCEPT RASCHIG RINGS)	777	430-AREA 3	90.45	1	
440	GLASS (EXCEPT RASCHIG RINGS)	777	483-AREA 8	90.68	4	
473	ELECTROREFINED SALT PACKAGED FOR LANL	371	3189	90.1	2	
473	ELECTROREFINED SALT PACKAGED FOR LANL	371	STACKER	90.11		2
473	ELECTROREFINED SALT PACKAGED FOR LANL	371	1208	90.15	1	
473	ELECTROREFINED SALT PACKAGED FOR LANL	371	2223	90.20	1	
473	ELECTROREFINED SALT PACKAGED FOR LANL	371	3602	90.70		1
473	ELECTROREFINED SALT PACKAGED FOR LANL	371	3511	90.71		46
473	ELECTROREFINED SALT PACKAGED FOR LANL	371	3567A	90.8	2	
473	ELECTROREFINED SALT PACKAGED FOR LANL	777	430-AREA 2	90.45	5	
480	LIGHT METAL	371	3189	90.1	3	
480	LIGHT METAL	371	1101	90.12	0	
480	LIGHT METAL	371	1210	90.63	1	
480	LIGHT METAL	371	3206	90.9	3	
480	LIGHT METAL	707	G&H HALL	90.60	1	
480	LIGHT METAL	771	183	90.129	1	
480	LIGHT METAL	771	ANNEX-N	90.25	1	
480	LIGHT METAL	771	ANNEX-S	90.25	0	
480	LIGHT METAL	776	127	90.66	18	
480	LIGHT METAL	777	430-AREA 2	90.67	1	
481	LIGHT NON-SS METAL (UNCLASSIFIED)	771	114	90.22	1	
481	LIGHT NON-SS METAL (UNCLASSIFIED)	776	127	90.66	1	
489	CLASSIFIED BE SCRAP METAL SHAPES	771	114	90.22	2	
489	CLASSIFIED BE SCRAP METAL SHAPES	776	127	90.66	6	
489	CLASSIFIED BE SCRAP METAL SHAPES	777	465	90.48	19	
489	CLASSIFIED BE SCRAP METAL SHAPES	779	159	90.42	1	
490	HEPA AIR FILTERS (24 X 24) NON-ACID CONT	371	2202	90.10	8	
490	HEPA AIR FILTERS (24 X 24) NON-ACID CONT	776	127	90.66	2	
500	ENRICHED URANIUM SPECIAL SOL (NON-CONT.)	771	146	90.83		8
503	MISC. ACID WASTE, PLUTONIUM	771	146	90.83		1
508	ACID CHLORIDE WASTE	771	181A	90.23	1	
527	MISC. BASIC WASTE SOLUTION	771	180K	90.121		1
541	ANALYTICAL LAB SOLUTION	771	146	90.83		2
654	ER SALT FROM PU/NP	371	3606	90.2		2
654	ER SALT FROM PU/NP	371	STACKER	90.100		11

Backlog Mixed Residues

IDC	DESCRIPTION	BLDG	ROOM	UNIT	DRUMS	CANS
654	ER SALT FROM PU/NP	777	430-AREA 3	90.45	1	
655	ER CERAMICS FROM PU/NP	771	183	90.129	1	
xxxx	TOTAL				2971	3769

Mixed Residue Solutions

IDCs	SOLUTION DESCRIPTION	LITERS	BOTTLES
	SOLUTION IN BOTTLES		
400 & 401	ION COLUMN FEED	372	99
500	ENRICHED URANIUM SPECIAL SOL (NON-CONT.)	7	3
503 & 508	MISC. ACID WASTE & ACID CHLORIDE WASTE	146	46
541	ANALYTICAL LAB SOLUTION	1552	383
	SOLUTION IN TANKS		
70	NITRATE FEED	880	
400	ION COLUMN FEED <5G/L	5818	
500	ENRICHED URANIUM SPECIAL SOL (NON-CONT.)	607	
527	MISC. BASIC WASTE SOLUTIONS	434	

"REVIEWED FOR CLASSIFICATION
By A. Ludolph (N)
Date 4/5/93"

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COLORADO DEPARTMENT OF HEALTH
HAZARDOUS MATERIALS AND WASTE MANAGEMENT DIVISION
APRIL 14, 1993

CONDITIONAL APPROVAL OF THE "MIXED RESIDUE REDUCTION REPORT" DATED FEBRUARY 26, 1992, AS AMENDED BY THE "ANNUAL MIXED RESIDUE REDUCTION REPORT" DATED NOVEMBER 13, 1992

On November 13, 1992, DOE submitted a report titled "Annual Mixed Residue Reduction Report" ("AMRRR") to CDH. This report is the first update to the Mixed Residue Reduction Report ("MRRR") submitted pursuant to Compliance Order 91-07-31-01, and amends that report. CDH approves the Mixed Residue Reduction Report as amended by the November 13, 1992 update, with the conditions set forth below. This amended, conditioned report shall be known as the "Mixed Residue Reduction Program ("MRRP").

1. CDH does not endorse, approve or accept the assumptions described on pages 5-6 of the MRRR and pages 3-4 of the AMRRR. DOE must evaluate the impact on the MRRP of changing the assumptions that operations for processing and removing mixed residues must comply with the requirements of all existing federal, state and local regulations and DOE orders and requirements (assumptions 1 and 2 on page 5 of the MRRR). In this regard, DOE shall identify process-limiting requirements and shall evaluate the impacts of obtaining amendments to or exemptions from such requirements, where such amendments or exemptions do not pose a significant increase in risk of harm to human health or the environment, and shall report the results of their evaluation and activities to address such process-limiting requirements in the next quarterly progress report submitted pursuant to the Settlement Agreement and Compliance Order on Consent No. 93-04-23-01 ("the 1993 Agreement and Order"). (The activities of the Efficiencies Working Group are examples of the identification and evaluation required by this condition.)

2. CDH finds that existing storage space for mixed residues at the Rocky Flats Plant ("the Plant") is not designed or located for efficient movement of materials for processing or, in many cases, for compliance with the Colorado Hazardous Waste Act, § 25-15-101, et seq., and that opportunities for converting existing space not currently utilized for hazardous waste or mixed waste storage are limited. On page 4 of the AMRRR, DOE states that it is unlikely any new structures will be constructed at Rocky Flats. In the quarterly report due October 1, 1993, DOE shall submit a report on the available storage space for backlogged mixed residues. In the quarterly report due October 1, 1994, DOE shall submit a report, for CDH review and approval, including an inventory of the available and potential storage space for all mixed wastes at the Plant, and an evaluation of the

adequacy of such space to comply with the requirements of the CHWA. In that report, DOE also shall assess the need for additional storage space in light of anticipated generation of additional mixed wastes from all operations at the Plant. In the quarterly report due October 1, 1993, DOE also shall submit a status report and a plan for preparing the report due in the quarterly report due October 1, 1994.

3. The AMRRR does not provide sufficient detail for evaluation of activities related to specific Item Description Codes ("IDCs"). The schedules for processing and removal of the mixed residues that are presented in the AMRRR are composite schedules for all IDCs and are disapproved. Because choices of specific management alternatives will likely have to be made for individual IDCs (or groups of related IDCs), DOE must submit for CDH review and approval, a description of management alternatives that are being evaluated for each IDC or group of IDCs. These descriptions shall include a schedule of all on-going and planned activities for that IDC or group of IDCs. Such schedules will provide for the processing of the mixed residues as expeditiously and reasonably as possible. As soon as the description of management alternatives is available for any IDC or group of IDCs it will be included in the next quarterly report following its availability. DOE may propose revisions to schedules in the quarterly progress reports.

4. Although much of the work activity that is described under NEPA documentation throughout the report may be necessary in order to plan and conduct the MRRP activities, it is CDH's position that NEPA cannot be allowed to delay performance required under this program. CDH understands that DOE views the matter differently and does not seek to resolve the issue of whether any obligation that DOE has to comply with NEPA would or would not be viewed as a force majeure. Nevertheless, DOE should perform NEPA activities in a manner that does not delay performance under this program as approved by CDH.

5. By the next annual update and in each quarterly report thereafter, as appropriate, DOE's evaluation of Ship-as-Waste/Residue alternatives (see page 5 of the AMRRR) will include a report on the type and quantities of wastes generated. The descriptions of management alternatives for each IDC shall describe the methodology (including DOE's assumptions) and provide access to the process information for estimating all waste volume estimates.

6. In the first quarterly report, describe the permitting activities that are referred to as Milestone 23 for Liquid Processing (p. 10 AMRRR).

7. In the first quarterly report, provide a copy of the report on the sensitivity analysis for the Ship-as-Waste alternative (p. 12 AMRRR).

8. In the first quarterly report and quarterly thereafter, as appropriate, provide a description of tasks and schedules for activities being conducted by the Efficiencies Working Group. DOE shall report on the evaluation of using other stable forms of plutonium which may minimize processing and waste generation.

9. In the first quarterly report and quarterly thereafter, as appropriate, provide a schedule for DOE to make application for an amendment of the NRC license to increased TRUPACT-II Fissile Gram Equivalent ("FGE") limits.

10. In the first quarterly report and quarterly thereafter, as appropriate, provide a list of activities and schedules for the evaluation of alternative transport systems.

11. As part of the review of packaging alternatives (p. 15 AMRRR), evaluate for waste management purposes whether segregation or selective repackaging (selective removal of high content SNM items from otherwise low content SNM wastes) could result in reduced numbers of containers with high SNM contents, and provide the evaluation to CDH in the first quarterly report.

12. In the first quarterly report and quarterly thereafter, as appropriate, provide a schedule for submittal of the Status and Final Report described in the AMRRR (pg. 15, Section 4. first paragraph) to CDH for review. This report shall assess whether treatment processes that are currently in operation at other DOE sites are adaptable for use with Rocky Flats' backlogged mixed residues.

13. In the first quarterly report, submit to CDH the RCRA Treatment Trade Study (p. 16 AMRRR).

14. Results from characterization of backlog residues shall be submitted to CDH as they are completed and reported in the next quarterly report following completion of the characterization for each IDC or group of IDCs, including any changes in hazardous waste determination for tested materials.

15. With respect to demonstration and testing activities (p. 19 AMRRR), submit the results of the thermochemical modeling of the theoretical studies in the first quarterly report, and submit in the first quarterly report following the completion of testing, the final results of testing to CDH for review. It appears that the result of the oxygen sparging would be to create a by-product of SNM-rich material that would be stored as a national asset. In the first quarterly report following the completion of testing, compare for waste management purposes the outcome of an oxygen sparging option with the outcome of processing that might be done in the ship-as-waste/residue option, including an assessment of the degree to which oxygen sparging removes more SNM from the waste compared to the ship as waste/residue option. In the first quarterly report, describe other treatment options that have been or are being evaluated for the RCRA treatment

option. In the first quarterly report, evaluate whether the calcining process in Building 707 may be used for treating the reactive wastes.

16. In the first quarterly report, submit the Two-Year Work Plan for CDH review and approval.

17. CDH finds that the no-action alternative will not meet the requirements for removal of the mixed residues from RFP as part of the Two-year Work Plan.

18. In the first quarterly report, indicate whether incineration of residues is still being considered as a means of volume reduction of residues, and what other volume reduction methods are being evaluated, if any.

19. In the first quarterly report, provide a schedule for completion of the Building 707 evaluation and submittal of results to CDH for review. The 707 evaluation shall include a comparison of currently scheduled SNM stabilization activities and the potential for using the same equipment for mixed residue reduction.

20. Include a status report on process optimization activities in the quarterly updates. The status reports shall describe process optimization activities and results by IDC or IDC group.

21. In the third quarterly report, submit the revised program plan for liquid treatment and disposal (p. 22 AMRRR) for CDH review and approval. The plan shall include detailed descriptions of treatment processes and proposed equipment.

22. The discussion of the EIS process incorrectly implies that decisions regarding the manner and schedules for removal of mixed residues from the Rocky Flats Plant are solely at the discretion of DOE. Evaluation and selection of alternatives requires approval of CDH.

23. In the first quarterly report, submit the Demonstration & Testing ("D&T") Plan for CDH review and comment.

24. The processing of this material is to conform with U.S. Department of Transportation and U.S. Nuclear Regulatory Commission shipping requirements and WIPP waste acceptance criteria. The MRRR and AMRRR, as written, includes the removal of these materials from the Rocky Flats Plant. However, it is not appropriate that the MRRP define a specific removal schedule at this time. The MRRP, in each quarterly progress report, however, shall provide CDH with information concerning DOE activities related to WIPP undertaken by the DOE in the previous quarter.